

# GENERAL STATUTES

OF

# MINNESOTA

1913

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shall have remained undrawn for the period of one year after the expiration of the year during which they became available under the law; provided, that the governor, state treasurer and attorney general may continue such appropriations or balances in force, temporarily, on recommendation of the state auditor. Provided further, that nothing in this act contained shall be construed to interfere with or modify any law requiring the surplus in any fund or funds to be covered in the state treasury, at the end of any fiscal year, or at any other specified time. ('07 c. 272 § 1)

**115. Official not to exceed appropriation in incurring indebtedness—Penalty—Exception—**Whenever there has been an appropriation for any purpose whatsoever, it shall be unlawful for any state board or official to incur indebtedness on behalf of said board, official, or the state of Minnesota, in excess of the appropriation made for such purpose. It is hereby made unlawful for any state board or official to incur any indebtedness on behalf of said board, official, or the state of Minnesota, of any nature whatsoever, until after an appropriation therefor has been made by the legislature. Any official violating the provisions of this act shall be deemed guilty of a misdemeanor, and the governor of the state is hereby authorized and empowered to remove any such official from office. Provided, that in case of calamity or actions of the elements (such as fire, water, storms, etc.) such board or official may obtain the consent of the governor, the state auditor and the state treasurer, in writing, stating the special amount of expense that may be incurred and such expenditure shall be considered a valid claim against the state of Minnesota. ('07 c. 272 § 2)

**116. Additional compensation from contingent fund prohibited—**In all cases where the compensation of an officer of the state is fixed by law at a specified sum, it shall be unlawful for any such officer or employé to receive additional compensation for the performance of his official services out of the contingent fund of said officer or said department, and it shall be unlawful for the head of any department of the state government to direct the payment of such additional compensation out of the contingent fund, and the state auditor is hereby prohibited from issuing his warrant upon such contingent fund in payment of such additional compensation. ('09 c. 395 § 1)

**117. Same—Penalty—**Every person offending against the provisions of this act shall be guilty of a misdemeanor and punished by a fine of not exceeding \$100.00 or imprisonment in the county jail for not exceeding ninety days. ('09 c. 395 § 2)

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## CHAPTER 5

### JUDICIAL DEPARTMENT

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#### SUPREME COURT

**118. Number of justices—General terms—**The supreme court shall consist of one chief justice and four associate justices, who shall hold two general terms of said court each year, at the seat of government, beginning on the first Tuesday in April and October, respectively. (69)

**119. Special terms—Adjournments—Quorum—**Special terms may be held whenever the court shall so direct, but three weeks' published notice of the order appointing the same shall be given at the seat of government. Any term may be continued from time to time by orders announced in court and entered in the minutes. Any three justices may hold the court and exercise its powers. Unless three shall attend at the time for opening court, those present, or, if all be absent, the clerk, shall adjourn the court until the following day; but, if three justices be absent for six consecutive days, the court shall stand adjourned without day. (70)

**120. Pending cases continued—**Whenever a term is adjourned, or there is a failure for any reason to hold a term at the appointed time, all causes then on the calendar, and all writs, recognizances, appeals, and proceedings taken

or made returnable to the court at such term, shall stand over to, and be heard at, the general or special term next ensuing, as if no such adjournment or failure had occurred. (71)

121. **Powers concerning writs and processes**—The court shall have power to issue to all courts of inferior jurisdiction, and to all corporations and individuals, writs of error, certiorari, mandamus, prohibition, quo warranto, and all other writs and processes, whether especially provided for by statute or not, that are necessary to the execution of the laws and the furtherance of justice. It shall be always open for the issuance and return of such writs and processes, and for the hearing and determination of all matters involved therein, subject to such regulations as it may prescribe. Any justice of the court, either in vacation or in term, may order the writ or process to issue, and prescribe as to its service and return. (72)

Power to issue writ of certiorari (13-508, 468; 86-301, 303, 90+772; 44-244, 46+349; 103-485, 115+647); to issue writ of mandamus (28-40, 8+899; 99-313, 109+404); to issue writ of quo warranto (27-38, 6+408; 40-213, 41+1020, 3 L. R. A. 510; 48-497, 51+613; 58-275, 277, 59+1015; 69-108, 112, 71+910; 96-255, 104+948, 1 L. R. A. [N. S.] 826, 6 Ann. Cas. 905).

122. **General powers—Rules**—Such court shall have all the authority necessary for carrying into execution its judgments and determinations, and for the exercise of its jurisdiction as the supreme judicial tribunal of the state, agreeable to the usages and principles of law; also to prescribe, and from time to time amend and modify, rules of practice therein, not inconsistent with the law, and to provide for the publication thereof at the cost of the state. (73)

123. **Decisions—Headnotes—Copies**—In all cases decided by the court, it shall give its decision in writing, and file the same with the clerk, together with headnotes, briefly stating the points decided. A copy of such headnotes shall be furnished by the clerk, without charge, to such proprietors of daily newspapers as may desire them for free publication. Decisions may be rendered and judgments entered thereon in vacation as well as in term. (74)

#### COMMISSIONERS

124. **Appointment—Qualifications**—The supreme court of the state, upon the taking effect of this act, is hereby authorized and directed to appoint two persons as commissioners of the supreme court, each of whom shall possess the same qualifications, and take a like oath as justices of the supreme court. Such appointment shall be for six years from the date thereof. They shall each receive the same compensation as a justice of the supreme court, and payable in the same manner; and during their appointment shall not engage in the practice of law. All vacancies shall be filled in the same manner as the original appointment. ('13 c. 62 § 1)

125. **Duties—Stenographers**—It shall be the duty of said commissioners, under such rules and regulations as the supreme court may adopt, to aid and assist said court in the performance of its duties, in the disposition of causes now pending before it, or which shall hereafter be brought into it during the term of office of such commissioners. During his term of office each commissioner shall be provided with an office at the state capitol, suitably furnished, be supplied with stationery, and may appoint a stenographer who shall receive the same compensation, and to be paid in the same manner as stenographers of the justices of the supreme court are now, or may hereafter be appointed and paid. ('13 c. 62 § 2)

126. **Termination of office**—Upon the increase, in the manner provided by law, of the number of associate justices of the supreme court to six, and the appointment and qualification of such additional associate justices, the term of the supreme court commissioners then in office shall terminate, and the office of supreme court commissioners hereby created, shall without further act be abolished. ('13 c. 62 § 3)

#### CLERK

127. **Bond—Deputy—Assistants**—The clerk of the supreme court shall give bond to the state in the sum of one thousand dollars, to be approved by the governor, conditioned for the faithful discharge of his official duties.

He may appoint a deputy clerk, who shall perform his duties whenever he is absent or disabled, and for whose acts he shall be held responsible. He may also employ, from time to time, necessary additional assistants, and fix their compensation; but no such employment shall be at the cost of the state unless an appropriation therefor shall have been made. (75)

As to salary, etc., see §§ 294-297.

128. **Records, books, supplies, etc.**—The clerk shall keep such dockets, journals, and other records, and perform such duties appropriate to his office, as the supreme court may by its rules prescribe. And he shall provide at the cost of the state all books, stationery, furniture, postage, and supplies necessary for the proper transaction of the business of the court. (76)

#### MARSHAL

129. **Appointment, duties, etc.**—A marshal of the supreme court may be appointed by the justices thereof to act during their pleasure. His qualifications, duties, and powers shall be such as the court may prescribe conformably to the laws. (77)

#### STATE LIBRARY

130. **Justices to govern library—Rules, etc.**—The state library, as now constituted, with all future additions thereto, shall be maintained in the capitol under the supervision of the justices of the supreme court. They shall direct such purchases of books, pamphlets, and documents therefor, and such sales and exchanges therefrom, as they may deem best. They shall also adopt rules for the government of the library and the management of its affairs, and prescribe penalties for their violation, which rules shall be conspicuously posted in the library rooms. (78)

131. **Librarian and assistants—Bond**—The official term of the state librarian appointed by the governor shall be two years and until his successor qualifies. He shall give bond to the state in at least two thousand dollars, to be approved by the governor, conditioned for the faithful performance of his official duties. He may appoint an assistant librarian to serve during his term, who shall perform his duties when he is absent or disabled, but such appointment shall not take effect until approved by the justices. He may also employ, from time to time, with the approval of the justices, such clerical and other assistants as may be necessary, and for whose compensation provision shall have been made by law. (79)

132. **Duties of librarian**—The librarian shall have charge of the library rooms and property, and attend, under the direction of the justices, to all purchases, exchanges, and sales; and the public printer shall forward such public documents of the state as the librarian may desire to send to designated institutions and officials of other states for purposes of exchange. He shall obey and enforce the rules prescribed for the government of the library and its affairs, and collect, by action in his name if necessary, all damages from injury to or retention of library property, and all fines imposed for violation of the rules. (80)

133. **Records and accounts—Receipts**—He shall keep a detailed chronological record of all purchases, exchanges, and sales, and of all additions to the library by gift, purchase, or exchange, respectively; also a like account of all amounts collected as damages, fines, or from other sources, and of all expenditures made. Such records and accounts shall be open to public inspection, and be transferred to his successor. All moneys collected shall be paid into the treasury, and added to the library appropriation for the current year. (81)

134. **Public documents**—All official publications of the United States, and of other states and countries, which are received for the use of this state by any officer thereof, shall be deposited in the state library forthwith; and two copies of each official book or pamphlet issued by the state shall be preserved therein. (82)

#### JANITOR

135. **Appointment and duties**—The justices may appoint, and at pleasure remove, a janitor, who shall have the care of the courtroom, the rooms of

the clerk and justices of the court, and of the state library, and shall perform such other duties as the justices may require. (83)

#### REPORTER

136. **Bond—Possession of files**—The reporter of its decisions, appointed by the supreme court, shall give bond to the state in the sum of five hundred dollars, to be approved by the governor, conditioned for the faithful discharge of his duties. He shall be entitled to the possession, for a reasonable time, of the files of the court in all cases decided. (84)

137. **Cases, how reported—Citations**—He shall accurately report all such cases, noting concisely the points decided, with a statement of the facts as shown by the record, unless the same are fully stated in the opinion; the names of counsel, with the points made and authorities cited, as fully as he deems necessary; and the opinions rendered by the justices. All references in such opinions to former decisions of the court which have been published in "The Northwestern Reporter" shall also cite the volume and page of such reporter where the same appear; and, if the opinion reported has been published in said reporter, the volume and page of such publication shall be cited. (85)

138. **Copy, when furnished—Copyright**—Within ninety days after the filing of a sufficient number of decisions to make a printed volume of six hundred pages, and sooner if practicable, the reporter shall deliver the manuscript of his report of such cases to the contractor for the publication thereof. As soon as the same is put in type, he shall read and correct the printer's proof, and furnish to the contractor an index, a table of cases, and other matter necessary to complete the volume. He shall have no pecuniary interest in such reports, which shall be copyrighted by the secretary of state in trust for the people. (86)

#### MINNESOTA REPORTS

139. **Size and quality of volume—Time**—Each volume shall contain at least six hundred pages of four and one-half inches in width, and be printed and bound in style and quality to be approved by the justices of the court, and at least equal to the best of those heretofore published. Each volume shall be furnished ready for use within sixty days after the final manuscript therefor shall have been delivered to the contractor, but the time during which the reporter may retain the proofs for revision shall be excluded from the count. (87)

140. **Existing contract to govern—New contract**—The publication and sale of such reports shall be conducted under the contract now in force, made pursuant to Laws 1903, c. 129; and when said contract is fully performed or is otherwise terminated, the secretary of state, unless other provision be made by law, shall proceed under said chapter to make a new contract for the six years next ensuing. (88)

141. **New contract**—That the secretary of state be and is hereby authorized and required on behalf of the state of Minnesota to solicit bids and enter into a contract for the printing and publishing of the number of copies of the supreme court reports of this state now required by law for the period of six years from and after October 1st, 1909, said contract to be awarded to the lowest responsible bidder whose bid shall not exceed \$1.00 per volume, and who shall furnish to said secretary of state a bond in the sum of five thousand dollars conditioned that the said reports and the printing and publishing thereof shall conform to the following specifications, to-wit:

First. That the size of the volumes, the character and quality of the paper used therein, and the binding and the general mechanical execution thereof shall conform to the requirements for the printing and publication of said reports provided by section 87, Revised Laws, 1905 [139].

Second. That the number of copies provided for by law shall be published and delivered to the secretary of state within sixty days after the complete manuscript thereof shall be delivered by the reporter of said court to said contracting party.

Third. That at the time said party to whom said contract shall be awarded shall deliver said copies of said report to said secretary of state, free of charge, a true and correct paper matrix of said report, to be preserved by said secretary of state as part of the records of his office.

Fourth. That the party to whom said contract shall be awarded shall agree to publish and sell the same at the place of publication within this state, and at all times keep the same on sale at such place of publication in quantities of one or more copies at any one time, and upon reasonable notice of not less than ten days for the price agreed upon in said contract, and shall agree to stereotype the same and at all times keep the same on sale in the state of Minnesota at the contract price, and furnish the state any number of additional copies that may be thereafter required at said contract price, the copyright of all reports published under said contract vesting in the secretary of state for the benefit of the people of this state; provided, however, that nothing herein contained shall be so construed as to prevent the contractors by whom any such volume is published, their representatives or assigns, from continuing the publication and sale of such volumes, so long as they shall comply in all respects with the requirements of this act in respect to the character, sale and price of such volume. ('09 c. 438 § 1)

142. **Distribution of copies**—From the volumes purchased by the state under such contract, the secretary of state shall furnish copies as follows:

1. One to each judge of the district, probate, and municipal courts of the state, and to each justice of the supreme court.

2. Three to the attorney general.

3. One to each clerk of the district court. All of the foregoing to remain the property of the state, and be delivered to the successors in office of the officials named.

4. Three to the clerk of the United States circuit court of appeals for the eighth circuit, one to be kept for the use of the judges at each of its places of meeting.

5. One hundred to the state university, to be used in exchanges or otherwise for the benefit of its law library.

6. To the state library, as many as the justices of the supreme court shall deem necessary for like purposes.

The copies so furnished to clerks of the district court, when not in use during sessions of the court, shall be kept in their respective offices for the use of officials and citizens of the county, and shall not be taken therefrom. The copies not disposed of hereunder shall remain in the custody of the secretary of state. (89)

#### DISTRICT COURT

143. **Jurisdiction**—The district courts shall have original jurisdiction in all civil actions within their respective districts, in all cases of crime committed or triable therein, in all special proceedings not exclusively cognizable by some other court or tribunal, and in all other cases wherein such jurisdiction is especially conferred upon them by law. They shall also have appellate jurisdiction in every case in which an appeal thereto is allowed by law from any other court, officer, or body. (90)

District courts have original jurisdiction of civil actions regardless of the amount in controversy (6-110, 53; 6-503, 350; 7-398, 316; 10-215, 173); and of criminal actions regardless of the punishment (26-148, 1+1054; 36-234, 30+764; 69-499, 72+832). They have original jurisdiction in equity (2-31, 21) and appellate jurisdiction in probate proceedings (72-165, 166, 75+123).

144. **Same—Boundary waters**—For the purposes of exercising the concurrent jurisdiction of the courts of this state in civil and criminal cases arising upon rivers or other waters which constitute a common boundary to this and any adjoining state, the counties bordering upon such waters shall be deemed to include so much of the area thereof as would be included if the boundary lines of such counties were produced in the direction of their approach and extended to the opposite shore. (91)

See §§ 2, 3.

60-503, 505, 63+100.

**145. Power to issue writs**—Such courts shall have power to issue writs of injunction, ne exeat, certiorari, habeas corpus, mandamus, quo warranto, and all other writs, processes, and orders necessary to the complete exercise of the jurisdiction vested in them by law, including writs for the abatement of a nuisance. Any judge thereof may order the issuance of such writs, and direct as to their service and return. (92)

50-264, 266, 52+862; 66-213, 215, 68+976; 71-16, 73+521; 72-165, 75+123; 96-255, 104+948, 1 L. R. A. (N. S.) 826, 6 Ann. Cas. 905; 98-89, 107+730; 106-197, 118+1014; 107-441, 120+894.

**146. Writs and processes, how tested, signed, etc.**—Every writ or process issuing from a court of record shall be tested in the name of the presiding judge, be signed by the clerk and sealed with the seal of the court, be dated on the day of its issue, and before delivery to the officer for service, shall be indorsed by the clerk with the name of the attorney or other person procuring the same; and, when no other time is fixed by law or authorized by the rules of practice, it shall be made returnable on the first day of the next succeeding term. (93)

16-426, 383, 10 Am. Rep. 150; 20-196, 175; 22-189, 192; 40-65, 70, 41+459; 91-352, 357, 98+188.

**147. Judge may act in another district**—Whenever in the judgment of the governor, or of any judge of any judicial district, the convenience or interest of the public or the interest of any litigant shall require that the judge of another judicial district shall discharge any of the duties of such judge, the governor may designate, or such judge may request, a judge of the district court of any other judicial district to discharge any such duties; to hold, or to assist in holding a general or special term of such court, in any county of such judicial district other than his own, or to try and determine any motion, action or proceeding pending therein. And thereupon such judge of the district court, or any other judicial district so designated or requested, may discharge any such duties, hold or assist in holding a general or special term of such court, or try and determine any motion, action or proceeding pending therein. And by consent of the parties any judge of said court may act in all matters brought before him from another judicial district. In either case the acts, orders and judgments of the judge so acting shall have the same force and effect as though given by a judge of such judicial district. When no other provision has been made therefor, the clerk shall seasonably notify the governor of the inability of the judge to hold any of his terms. (R. L. § 94, amended '07 c. 157 § 1)

76-391, 392, 79+397.

**148. Judge not to practice law**—No judge of the district court shall practice as an attorney or counselor at law except in cases in which he is a party in interest, nor receive any fees for legal or judicial services other than as prescribed by law; nor shall he be a partner of any practicing attorney in the business of his profession. (95)

**149. Courts not open Sundays—Exceptions**—No court shall be open on Sunday for any purpose other than to receive a verdict or discharge a jury; but this provision shall not prevent a judge of such court from exercising jurisdiction in any case where it is necessary for the preservation of the peace, the sanctity of the day, or the arrest and commitment of an offender. (96)

55-58, 60, 56+350, 43 Am. St. Rep. 472.

**150. Times for holding general terms**—The general terms of the district court shall be held in the several counties in each year at the times herein prescribed as follows:

**First judicial district— \* \* \***

The provisions of this section relating to the first district are superseded by 1911 c. 6. See § 151.

**Second judicial district**—Ramsey county: First Monday of each month, except July, August and September.

**Third judicial district**—Olmsted county: First Monday in June and December. Wabasha county: Second Monday in May and November. Wi-

nona county: Second Monday in January; third Monday in April and September.

**Fourth judicial district**—Hennepin county: Second Monday of September, effective after September first, 1909.

**Fifth judicial district**— \* \* \*

The provisions of this section relating to the fifth district are superseded by 1913 c. 326. See § 152.

**Sixth judicial district**—Blue Earth county: First Tuesday in February and June; second Wednesday in November. Watonwan county: First Tuesday in May and October.

**Seventh judicial district**— \* \* \*

The provisions of this section relating to the seventh district are superseded by 1913 c. 9. See § 153.

**Eighth judicial district**—Carver county: Second Monday in March and October. Le Sueur county: Third Monday in February and September. McLeod county: Second Monday in May and third Monday in November. Scott county: First Monday in April and fourth Monday in October. Sibley county: First Monday in June and second Monday in December.

**Ninth judicial district**—Lyon county: First Tuesday in June; fourth Tuesday in November. Redwood county: Third Tuesday in April; first Wednesday after the first Monday in November. Brown county: Third Tuesday in May; second Tuesday in December. Nicollet county: First Tuesday in May; third Tuesday in October. Lincoln county: Second Tuesday in March; first Tuesday in October.

**Tenth judicial district**—Fillmore county: Fourth Tuesday in May; second Tuesday in November. Freeborn county: First Monday in February; second Monday in May; fourth Monday in September. Houston county: Fourth Tuesday in February; third Tuesday in October. Mower county: Second Tuesday in January and June.

**Eleventh judicial district**— \* \* \*

The provisions of this section relating to the eleventh district are superseded by 1913 c. 522. See § 154.

**Twelfth judicial district**—Chippewa county: First Monday in June; fourth Monday in November;

Kandiyohi county: Third Monday in March; first Monday in October;

Meeker county: First Monday in June; first Monday in December;

Renville county: Second Monday in May; second Monday in November;

Swift county: Third Monday in May; second Monday in November;

Yellow Medicine county: Second Tuesday in January; third Tuesday in June;

Lac qui Parle county: First Tuesday in May; second Tuesday in December.

**Thirteenth judicial district**— \* \* \*

The provisions of this section relating to the thirteenth district are superseded by 1913 c. 52. See § 155.

**Fourteenth judicial district**— \* \* \*

The provisions of this section relating to this district are superseded by 1913 c. 40. See § 156.

**Fifteenth judicial district**— \* \* \*

The provisions of this section relating to the fifteenth district are superseded by 1913 c. 399. See § 157.

**Sixteenth judicial district**— \* \* \*

The provisions of this section relating to the sixteenth district are superseded by 1913 c. 263. See § 158.

**Seventeenth judicial district**—Faribault county: First Monday in April and December. Martin county: Second Monday in March and November. Jackson county: Second Monday in January; third Monday in May.

**Eighteenth judicial district**—Anoka county: Third Monday in March; second Monday in October. Isanti county: Third Monday in April; fourth

Monday in September. Wright county: First Monday in June and December. Sherburne county: Second Monday in May and November.

**Nineteenth judicial district**—Kanabec county: Fourth Tuesday in March. Chisago county: Second Tuesday in October. Pine county: Second Tuesday in April; third Tuesday in September. Washington county: Second Monday in May; fourth Monday in November.

In addition thereto general terms of courts shall be held in Chisago county on the first Tuesday in May and in Kanabec county on the third Tuesday in August, for the trial and determination of both civil and criminal cases, but no grand or petit jury shall be drawn or summoned unless the court shall so direct by a written order made and filed with the clerk of court of the proper county, at least twenty days before the dates herein fixed for holding said court. (R. L. § 97, amended '09 c. 244 § 1; '13 c. 48 § 1)

**St. Louis county**—For terms in the city of Virginia, see § 176.

**Beltrami county**—For terms in the village of Beaudette, see § 190.

#### LAWS SUPERSEDED

Acts were passed at the sessions of 1905 and 1907, prescribing the times for holding general terms in certain judicial districts, as follows:

First judicial district—1905 c. 6 (cf. 1907 c. 146).

Fifth—1905 c. 44.

Seventh—1905 c. 13; 1905 c. 55 (Becker county); 1907 c. 182 (Clay and Todd counties).

Ninth—1905 c. 41; 1907 c. 196 (Lincoln county).

Fifteenth—1907 c. 181 (Clearwater county).

Eighteenth—1905 c. 45.

Nineteenth—1907 c. 146.

No jurisdiction to convene for trial of actions or proceedings involving issues of fact at any place in the county other than the county seat, except by consent, or express statute (98-109, 107-547, 8 Ann. Cas. 938).

**151. Same—First judicial district**—The general terms of the district court of the first judicial district of the state of Minnesota shall be held as follows:

In Goodhue county—The first Tuesday in December and the first Tuesday in June.

In Dakota county—The first Tuesday in May and the first Wednesday after the first Monday in November. ('11 c. 6 § 1)

Section 2 repeals inconsistent acts, etc. See § 150.

**152. Same—Fifth judicial district**—The general terms of the district court of the fifth judicial district of the state of Minnesota, shall be held as follows:

In Dodge county, the first Monday in April and the first Monday in October;

In Rice county, the first Monday in May and the second Monday in November;

In Steele county, the first Monday in June and the first Monday in December;

In Waseca county, the third Monday in March and the third Monday in October;

Provided, however, that where any general term in said Waseca county has been or shall hereafter be adjourned for a period of more than thirty (30) days, and issues of fact in any action are joined more than eight (8) days before the first day of any such adjourned term, then and in that case such action may be brought on for trial at such adjourned term upon notice of trial served eight (8) days or more before the beginning of said adjourned term. ('13 c. 326 § 1)

Section 2 repeals inconsistent acts, etc.

**153. Same—Seventh judicial district**—From and after the first day of July A. D. 1913, the general terms of the district court in and for the several counties composing the seventh judicial district of the state of Minnesota shall be held in each year as follows, to-wit:

In Becker county on the fourth Monday in March and the first Monday in October.

In Benton county on the second Monday in April and the first Monday in October.

In Clay county on the second Monday in May and the first Monday in December.

In Douglas county on the fourth Monday in February and the first Tuesday in September.

In Mille Lacs county on the fourth Tuesday in March and the third Tuesday in October.

In Morrison county on the fourth Monday in February and the first Tuesday in September.

In Otter Tail county on the second Monday in April, and in the odd numbered years on the first Monday in November and in the even numbered years on the Wednesday next following general election day.

In Stearns county on the second Monday in May and the first Monday in December.

In Todd county on the second Monday in March and the third Monday in September.

In Wadena county on the fourth Monday in April and the second Monday in November. ('13 c. 9 § 1)

**154. Same—Eleventh judicial district—**The general terms of the district court shall be held each year in the several counties constituting the eleventh judicial district of Minnesota at the times herein prescribed as follows:

Carlton county—Second Tuesday in February, first Tuesday in June, third Tuesday in October.

St. Louis county—First Wednesday in January, March, May, September and November.

Lake county—First Wednesday in June and December.

Cook county—Third Monday in June. ('13 c. 522 § 1)

Section 2 provides that nothing in the act shall affect 1909 c. 126, providing, among other things, for the holding of general terms of the district court at the city of Virginia, and for the adjournment thereof to the village of Hibbing. See §§ 176, 186.

Section 3 repeals inconsistent acts, etc. (see 1911 c. 42).

**155. Same—Thirteenth judicial district—**The general terms of the district court shall be held each year in the several counties constituting the thirteenth (13th) judicial district of the state of Minnesota at the time herein prescribed as follows:

Cottonwood county, the first Monday in June; second Monday in November;

Murray county, first Monday in May and December;

Nobles county, third Monday in February and October;

Pipestone county, second Tuesday in January; third Tuesday in May;

Rock county, third Tuesday in March and the last Tuesday in September. ('13 c. 52 § 1)

Section 2 repeals inconsistent acts, etc.

**156. Same—Fourteenth judicial district—**The general terms of the district court shall be held each year in the several counties constituting the fourteenth judicial district of Minnesota at the times herein prescribed as follows:

Kittson county, on the second Monday in January and the second Monday in December.

Marshall county, on the fourth Monday in May and the fourth Monday in November.

Mahnomen county, on the fourth Tuesday in October.

Norman county, on the second Monday in May and the second Monday in November.

Polk county, on the first Monday in June and the first Monday after the first day of January.

Pennington county, on the fourth Monday in January and the fourth Monday in June.

Red Lake county, on the fourth Monday in March and the second Monday in November.

Roseau county, on the third Monday in May and the fourth Monday in October. ('13 c. 40 § 1)

Section 2 repeals inconsistent acts, etc. (see 1911 c. 151).

157. **Same—Fifteenth judicial district**—The general terms of the district court shall be held each year in the several counties constituting the fifteenth judicial district of Minnesota at the times herein prescribed, as follows:

Aitkin county, on the third Tuesday in March and the fourth Tuesday in September.

Beltrami county, on the second Tuesday in February and the second Tuesday in September.

Cass county, on the second Tuesday in April and the second Tuesday in November.

Clearwater county, on the third Tuesday in October.

Crow Wing county, on the first Tuesday in May and the first Tuesday in November.

Hubbard county, on the fourth Tuesday in May and the first Tuesday in December.

Itasca county, on the third Tuesday in March and the second Tuesday in September.

Koochiching county, on the second Tuesday in June and the second Tuesday in January. ('13 c. 399 § 1)

Section 2 repeals inconsistent acts, etc. (see 1911 c. 101). By section 3 the act takes effect September 1, 1913.

158. **Same—Sixteenth judicial district**—The general terms of the district court in the sixteenth judicial district of this state, shall be held in the several counties in each year at the times hereinafter prescribed, as follows:

In Big Stone county: Third Monday in June and third Monday in January.

In Grant county: First Monday in June and fourth Monday in October.

In Pope county: Second Monday in June and fourth Monday in November.

In Stevens county: Third Monday in March and second Monday in October.

In Traverse county: First Monday in May and second Monday in November.

In Wilkin county: Third Monday in May and second Monday in December. ('13 c. 263 § 1)

Section 2 repeals inconsistent acts, etc.

159. **Same—In new counties**—Whenever a new county is added to any district, until the time for holding court therefor is fixed by law, the judge or judges of such district, by an order filed with the secretary of state and with the several clerks in such district, shall fix the time of holding terms in such county; but such order shall not take effect until thirty (30) days after the filing thereof with the secretary of state, nor to be altered except as thereafter provided by law. The secretary of state shall publish in the volume of laws enacted at each legislative session, a schedule of the times of holding court in the several counties as fixed by law. ('09 c. 244 § 2)

160. **Absence of judge—Who may act—Exceptions**—Whenever the judge who should hear any action, motion, or proceeding is unable to be present, any other judge of the same judicial district may act in his place, except in the trial of causes already begun before the judge so absent: Provided, that motions for a new trial shall be heard by the judge before whom the cause was tried, if he be still in office and not disabled. (98)

75-289, 77+960.

161. **Adjourned and special terms**—The judges of each district may adjourn court from time to time during any term thereof, and may appoint special terms for the trial of issues of law and fact, and, when necessary, direct grand or petit juries to be drawn therefor. Three weeks' published notice of every such special term shall be given in the county wherein it is to be held. They may also appoint special terms for the hearing of all

matters except issues of fact, the order for which shall be filed with the clerk, and a copy posted in his office for three weeks prior to such term. (99)  
61-73, 76, 63+171, 28 L. R. A. 324; 64-394, 67+216; 74-448, 451, 77+206.

**162. Special terms in Washington county**—That in addition to the general terms of the district court in Washington county, special terms of said court shall be held in said county on the second and fourth Mondays of each month for the trial of issues of fact by the court, the trial of issues of law, the hearing of motions and applications, and all matters except the trial of issues of fact by a jury. ('09 c. 21 § 1)

Section 2 repeals inconsistent acts, etc.  
Cited (98-109, 107+547, 8 Ann. Cas. 933).

**163. Non-attendance of judge—Adjournment**—If the judge fails to attend on the day appointed for holding court, the sheriff or clerk may open court and adjourn the same from day to day; but, if he does not appear by 4 o'clock p. m. of the third day, one of said officers shall adjourn the term without day, and dismiss the jurors: Provided, that such clerk or sheriff, upon the direction of the judge, and without his presence, may adjourn any general or special term to a day certain, in which case the jurors, if any, shall attend on such day without further notice. (100)

**164. Failure to hold term, etc., not to affect writs, etc.**—Whenever any term of court is not held, all persons bound by recognizance or otherwise to appear thereat shall appear at the next general term thereof held in the county, or, if a special term be sooner held for the trial of civil and criminal causes, then at such special term. And if the time for holding any such term be changed by adjournment or otherwise, all persons so bound shall appear at the term as changed. No process, proceeding, or writ shall abate or be discontinued by reason of any alteration in the time or place of holding court, or of any vacancy or change in the office of judge. (101)

74-345, 351, 77+214.

**165. Temporary courthouses—Terms for naturalization**—Whenever the courthouse or place provided for holding court in any county is destroyed or becomes unsafe or unfit for the purpose, or if no courthouse be provided, the judges may designate a convenient place at the county seat for temporary use as such. And they may hold general or special terms of the court for the purpose of hearing applications for naturalization, in any place designated by them in the several counties of their respective districts. (102)

**166. Special venires for jurors**—Whenever at any term there is an entire absence or a deficiency of jurors, whether from an omission to draw or to summon such jurors, or because of a challenge to the panel, or from any other cause, the court may order a special venire to issue to the sheriff of the county, commanding him to summon from the county at large a specified number of competent persons to serve as jurors for the term, or for any specified number of days. (103)

Under this section jurors are not "drawn" but simply "summoned," that is, selected by the sheriff from the county at large (61-73, 63+171, 28 L. R. A. 324). The venire does not state the names of the jurors to be summoned but leaves the selection to the sheriff (16-282, 249). Improper for sheriff to inquire as to opinions of jurors and to make selection accordingly (17-76, 54). Deficiency may be due to any cause, as, for example, sickness, death, or challenges to the panel or to individual jurors (16-313, 277). A special venire may be ordered when the whole of the original panel has been discharged (1-347, 257; 17-76, 54); when a challenge to the original panel has been sustained (10-233, 185; 50-123, 52+275; 13-341, 315); or when a portion of the original jurors do not appear (12-538, 448). A grand jury may be summoned by special venire (50-123, 52+275). A second special venire may be ordered on the exhaustion of the first (16-282, 249), or talesmen may be summoned (12-538, 448).

**167. Rules of practice—Revision**—The judges of the district courts shall annually assemble at the capitol on the first Wednesday after July 4, to revise the general rules of practice in such courts, for which purpose any eighteen of them shall constitute a quorum. When so assembled, such judges may revise and amend such rules as they deem expedient, conformably to law, and the same shall take effect from and after the publication thereof. Such rules, as the same shall be so revised and amended from

time to time, shall govern all the district courts of the state; but, in furtherance of justice, they may be relaxed or modified in any case, or a party relieved from the effect thereof, on such terms as may be just. (104)

71-511, 513, 74+283.

**168. Several judges—Division of business, etc.**—In districts having more than one judge, the one longest in continuous service, or, if two or more be equal in such service, the one senior in age, shall be the presiding judge thereof. The business of the court may be divided between the judges, and otherwise regulated as they by rule or order shall direct. Each may try court or jury causes separately during the same term and at the same time, or two or more of them may sit together in the trial of any cause or matter before the court. If there be a division of opinion, that of the majority shall prevail. If the division be equal, that of the presiding judge, or, if he be not sitting, that of the judge senior in age, shall prevail. (105)

**169. Terms to be held in certain cities and villages—Order and notice**—Except as hereinafter provided, one or more terms of the district court shall be held during each year in all cities and villages in this state which at any time shall have a population of more than 6,000, which are situated fifty miles or more by the usual traveled route by rail from the county seat of the county in which said village or city may be situated. The time and place of holding such terms of court shall be fixed by the order of a judge of said court, made and filed with the clerk thereof at least thirty days before the time appointed to hold said court. Such order may be special as to each term of court to be held, or it may be a general order providing the times and places at which such terms shall be held, until the further order of the court. Such clerk shall cause published notice of said order to be made for two successive weeks in a newspaper published in the city or village where such terms shall be appointed to be held, the last of which publication shall be had not less than ten nor more than twenty days before the opening of any such term. At such terms of court, with the limitations hereinafter provided, all matters cognizable before the court, except the trial of issues of fact by a jury, may be brought on for hearing, trial and determination. ('07 c. 414 § 1)

**170. Same—Place of trial, how determined**—The business to be transacted at any such term shall be such as may be brought before the court by consent of parties, and, if in any case or proceeding the parties shall fail to agree with respect to the place of hearing or trial thereof, when one or more of such parties shall reside within such county, and more than fifty miles distant from the county seat thereof, the matter in dispute may be submitted to the court eight days or more before any such term, and the court shall thereupon determine the place of hearing or trial, having consideration of the residence and convenience of the parties, and the hearing or trial shall thereupon be had at the place so fixed; provided, that in case cities or villages having the population herein provided for, shall at any time exist within fifteen miles of each other, it shall not be necessary to fix or hold terms of court in both of such places, but the terms of court may be held in either, as a judge of this court may from time to time determine. ('07 c. 414 § 2)

**171. Same—Court room, how provided**—It shall be the duty of every such city or village in which such term of court shall be appointed to be held as aforesaid, to provide therefor a suitable room or building to hold the terms of court as shall be so designated by said judges, at the expense of said village or city. ('07 c. 414 § 3)

**172. Same—Calendar—Note of issue**—It shall be the duty of the clerk to keep a calendar of actions for trial in any such city or village, and it shall be the duty of parties litigant entitled to have their action tried in any such city or village, as aforesaid, to designate the same upon the note of issue to be filed with the clerk of court. ('07 c. 414 § 4)

**173. Same—Duties of judges and sheriffs**—It shall be the duty of one or more judges of the district court, the sheriff or his deputy or deputies,

the clerk of the district court, or one or more of his deputies, to be present at all terms of court, so appointed to be held, to properly attend to the trial and disposition of all cases on the calendar for trial, for any such city or village. ('07 c. 414 § 5)

174. **Same—Records**—All records, orders, judgments, of any term of a court so held shall finally be deposited and recorded in the county clerk's office at the county seat of the county. ('07 c. 414 § 6)

175. **Same—Traveling expenses—Change of venue**—The judges of the district court shall have full power and authority to make all such orders as are necessary to carry out the provisions of this act, and shall have the power to direct the county commissioners of any such county to pay the necessary traveling and other expenses connected with holding said terms of court, not otherwise provided by law. Provided, that nothing in this act shall prevent the change of venue of the trial of civil actions as otherwise provided by law. ('07 c. 414 § 7)

176. **Eleventh judicial district—St. Louis county—General terms in Virginia and Hibbing—Adjournment to Ely**—General terms of the district court for the county of St. Louis are hereby established to be held in the city of Virginia, in said county, on the first Tuesday of April and the fourth Tuesday of August and the first Tuesday of December, in each year, and in the village of Hibbing on the first Tuesday in February and June and the fourth Tuesday of October in each year, and for adjourning any one of said terms held at Virginia, to the city of Ely, when in the judgment and discretion of the court it is deemed expedient so to do, for the trial of all actions and proceedings, civil and criminal, with the same force and effect as though held at the county seat of said county; and said terms shall be in addition to the general terms of said district court, held at the county seat of said county, as now provided by law.

Provided, that all proceedings for the registration of title to real estate shall be tried at the county seat of said county.

Provided further, that all other actions involving the title to real estate shall be tried at the county seat of said county, except that by written consent of all the parties thereto, any such action may be tried at the said city of Virginia or village of Hibbing.

Provided further, that in any action involving the title to real estate if the plaintiff shall in his summons and complaint state that he desires such action tried at the city of Virginia or the village of Hibbing such action shall be tried at such city or village, unless the defendant or any one of the defendants in said action shall in his answer demand that said action be tried at the county seat.

Provided further, that no officer having in his custody any of the public records of St. Louis county shall be required to produce any of said records at the trial of any action herein provided for, except at the county seat, save on an order of said court providing for the immediate return of any such records to the proper office.

Provided further, that such regular terms of court shall not be held at the village of Hibbing, as aforesaid, and such adjourned terms shall not be held at the city of Ely as aforesaid, unless the said village of Hibbing and said city of Ely shall have previously, without any expense to the county of St. Louis, provided suitable rooms for the holding of such terms of court and the accommodation of the clerk and a proper place for the confinement of prisoners during such terms. ('09 c. 126, amended '11 c. 368 § 1)

Section 1 provides that 1909 c. 126, be amended so as to read as follows; the act as amended consisting of sections numbered 1-14 [§§ 176-189].

Section 2 repeals all inconsistent laws and parts of laws.

See § 154.

177. **Same—Special terms**—Special terms of said district court shall also be held at said city of Virginia at least once in each month and at said village of Hibbing, at least once in each month, on such days and at such times as the court may designate by order, for the hearing of such matters as are

usually heard at special terms and at chambers in the district court. ('09 c. 126, amended '11 c. 368 § 1)

**178. Same—Deputy sheriff and clerk—**There shall be at all times a chief deputy sheriff of said county and a chief deputy clerk of said district court and such other deputies as may be necessary, resident at said city of Virginia or village of Hibbing and their appointment shall be made in the same manner as other deputy sheriffs and deputy clerks of the district court in said counties.

The salaries of such deputies shall be fixed and paid in the same manner as other such deputies, except that the salary of such chief deputies shall be not less than \$2,000 per year.

But the offices of said deputy sheriff and the offices of said deputy clerk at Virginia and Hibbing shall not in any sense be considered or deemed to be the office of the sheriff or the office of the clerk of said court for any purpose, except for the performance of their respective duties, relating solely to proceedings tried or to be tried at said city of Virginia or village of Hibbing, except that marriage licenses and naturalization papers may be issued by said deputy clerk. ('09 c. 126, amended '11 c. 368 § 1)

**179. Same—Court house—Jail—Expenses—**It is hereby made the duty of the board of county commissioners of said county of St. Louis, to furnish and maintain adequate accommodations for the holding of the said court at said city of Virginia, proper offices for said deputies, and a proper place for the confinement and maintenance of prisoners at said city.

And said county shall also reimburse the clerk of said court and his deputies herein provided for, and the county attorney and his assistants and the district judges of said district and the official court reporter for their traveling expenses actually and necessarily incurred in the performance of their respective official duties. ('09 c. 126, amended '11 c. 368 § 1)

**180. Same—Grand and petit jurors—**Grand and petit jurors for each of said general terms shall be selected, drawn and summoned in the same manner in all respects as for the general terms of said court held at the county seat of said county, except when in the discretion of the court, there will be no necessity of drawing a grand jury, the court may enter its order directing that no grand jury be summoned for the particular term therein mentioned. ('09 c. 126, amended '11 c. 368 § 1)

**181. Same—Appeals from municipal courts and justices—**All appeals from municipal courts and from justices of the peace, shall be heard and tried at the place of holding regular or adjourned regular terms of said district court which is nearest to the court appealed from, by the usual routes of travel.

Provided, that by consent of the parties any such appeal may be tried at any other place in the county where regular terms of said district court are held. ('09 c. 126, amended '11 c. 368 § 1)

113-425, 129+780.

**182. Same—Trial of criminal cases—**All persons bound over to the grand jury, charged with a criminal offense, by any justice of the peace or municipal court, shall be tried at the place of holding regular terms of said district court which is nearest to the court binding said party over; except as hereinafter provided; and all criminal offenses committed in any city, village, township or unorganized territory shall be tried at the place of holding the regular terms of said district court which is nearest to said city, village, township or place where said offense is committed. Provided that when said offense is committed nearer to Virginia or Hibbing than to the county seat, the party committing said offense shall be tried at the first term of court to be held at either Virginia or Hibbing at which a grand jury is in session.

Provided further, that when such offense is committed nearer the city of Ely than any of the other places referred to, said cause, in the discretion of the court, may be tried at said city of Ely. ('09 c. 126, amended '11 c. 368 § 1)

**183. Same—Trial of civil actions—**All civil actions brought in the district court of said county against any person or persons residing in said county, shall be tried at the place of holding regular or adjourned terms of said dis-

strict court which is nearest to the residence of said party or parties, or the majority thereof, by the usual routes of travel, unless the place of trial shall be waived by the defendant or defendants, and for the purpose of determining the place of residence of a corporation, the location of its principal office in said county shall govern. Provided, however, that if the territory affected by this act be formed into or become a part of any new county, such fact shall in no manner affect the holding of terms of court at any of the places designated in this act. ('09 c. 126, amended '11 c. 368 § 1)

**184. Same—Summons—Place of trial, how determined—**Any party wishing to have any civil cause commenced by him in said court, tried in said city of Virginia, shall in the summons issued therein, in addition to the usual provisions, print, stamp or write thereon the words "to be tried at the city of Virginia," and any party wishing any civil cause commenced by him in said court tried at the village of Hibbing, shall in the summons issued therein, in addition to the usual provisions, print, stamp or write thereon the words, "to be tried at the village of Hibbing;" and in all cases where any summons contains such specifications, the case shall be tried at said city of Virginia or village of Hibbing, as the case may be, unless the defendant shall have the place of trial fixed in the manner hereinafter set out.

If the place of trial designated in any summons is not the proper place of trial, as specified in this act, the cause shall nevertheless be tried at such place, unless the defendant, in his answer in addition to the other allegations of defense, shall plead the location of his residence, and demand that such action be tried at the place of holding said court nearest his residence as herein provided; and in any case where the answer of the defendant pleads such place of residence and makes such demand of place of trial, the plaintiff, in his reply, may admit or deny such allegations of residence, and if such allegations of residence be not expressly denied such cause shall be tried at the place so demanded by the defendant, and if the allegations of residence be so denied, then the place of trial shall be determined by the court on motion.

If there are several defendants, residing at different places in said county, the trial shall be at the place which the majority of such defendants unite in demanding, or if the numbers are equal, at the place nearest the residence of the majority.

Nothing in this act contained, however, shall be construed to abridge the power of the court, for cause shown to change the place of trial of any such action or proceeding, civil or criminal. ('09 c. 126, amended '11 c. 368 § 1)

**185. Same—Papers where filed—Judgment, etc.—**After the place of trial of any cause is determined, as provided in this act, all papers, orders and documents pertaining to all causes to be tried at Virginia or Hibbing and filed in court, shall lie filed and be kept on file at the clerk's office in the city of Virginia.

In all actions tried at the city of Virginia or the village of Hibbing, the clerk of said court, as soon as final judgment is entered, shall forthwith cause such judgment to be docketed in his office at the county seat; and when so docketed the same shall become a lien on real estate and have the same effect as judgments entered in causes tried at the county seat.

Provided, that in all actions tried at said city of Virginia or said village of Hibbing, involving the title to real estate, upon final judgment being entered, all the papers in said cause shall be filed in the clerks' office at the county seat and the final judgment or decree recorded therein, and a certified copy of all papers in said cause shall be made by the clerk and retained at the clerk's office in the city of Virginia, without additional charge to the parties to said action. ('09 c. 126, amended '11 c. 368 § 1)

**186. Same—Rules, etc.—**The judges of the district court shall have full power and authority to make all such rules, orders and regulations as are necessary to carry out the provisions of this act. ('09 c. 126, amended '11 c. 368 § 1)

**187. Same—Four judges—Powers—**There shall be elected in the eleventh judicial district of said state four judges of the district court, any one or more

of whom shall have and exercise the powers of said court as now prescribed by law relative to the present judges of said court, except as otherwise provided by this act, and all laws now in force, whether general or special, as to the qualifications, election, canvass of votes, oath and terms of office and commencement of such term, compensation, jurisdiction, duties, authority and powers of the present judges of the district court shall apply to all the judges of said court and their successors shall be elected and vacancies in their offices shall be filled as now provided in relation to the present judges of said district court.

Provided, however, that the present judges of said district court shall be judges of said court for the unexpired terms for which they were elected. ('09 c. 126, amended '11 c. 368 § 1)

See 1911 c. 193, providing for five judges.

**188. Same—Joint sessions—**The said judges or any two or more of them, may act in joint session for the trial or determination of any matter before the court, including the trial of jury cases, and when so acting the judge senior in office or if neither be senior in office, the judge senior in age shall preside, and the decision of the majority shall be the decision of the court.

If, however, the judges so acting together shall be evenly divided in opinion, the opinion of the presiding judge shall prevail. Process may be tested in the name of any one of the said judges. ('09 c. 126, amended '11 c. 368 § 1)

**189. Same—Division of business—Juvenile court—**The said judges, or a majority of them, may divide the business of the said court among the said judges, and may otherwise regulate said business by rules or otherwise; and each of said judges may separately try court or jury cases during the same term, or at the same time.

And the said judges or any two of them may designate one of their number whose duty it shall be to act as judge of the juvenile court at Virginia, in said county, to hear and determine cases arising under the provisions of chapter 285 of the General Laws of 1905 [7162-7175] and all cases affecting dependent, neglected and delinquent children under the law; and all authority of said chapter 285 shall be applicable to said court; and the same shall be known as "the juvenile court of Virginia."

Said juvenile court of Virginia shall have concurrent jurisdiction with the juvenile court heretofore established in said county in all cases under said act.

That the terms of said juvenile court shall be at the times specified by the judge of said court.

Special terms of said court may be held at the village of Hibbing on the order of the judge of said court.

One of the deputy clerks of said court, residing at Virginia, shall be clerk of the said juvenile court, and the appointment of such deputy clerk as such clerk of said juvenile court shall be made by the clerk of the district court of said county, with the consent and approval of the judges of the juvenile courts of said county, and such clerk of such juvenile court shall receive as compensation for his or her services, including those of deputy clerk, the sum of one hundred and twenty-five (\$125.00) dollars per month. ('11 c. 368 § 14, amended '13 c. 171 § 1)

1913 c. 171 § 2 repeals inconsistent laws, etc.

**190. Fifteenth judicial district—Beltrami county—General terms in Beaudette—**One or more general terms of the district court for the county of Beltrami are hereby established to be held in the village of Beaudette, in said county, in each year at such times as shall be fixed by the order of the judges of said court, made and filed with the clerk thereof at least thirty days before the time appointed for the holding of said court, for the trial of all actions and proceedings, except the trial of criminal actions under indictments, with the same force and effect as though held at the county seat of said county; and said terms shall be in addition to the general terms of said district court held at the county seat of said county, as now provided by law.

Provided, that all proceedings for the registration of title to real estate shall be tried at the county seat of said county.

Provided, further, that no officer having in his custody any of the public records of Beltrami county shall be required to produce any of such records at the trial of any action herein provided for, except at the county seat, save on an order of said court providing for the immediate return of any such records to the proper office. ('13 c. 147 § 1)

Section 13 repeals inconsistent laws, etc. (see 1909 c. 134).

**191. Same—Special terms**—Special terms of said district court may be held at said village of Beaudette at any time when the judges of said court shall so provide by order. ('13 c. 147 § 2)

**192. Same—Notice of holding term**—The clerk of said court shall give notice of all orders for the holding of any general or special term by publishing the same for two successive weeks in a newspaper published in said village of Beaudette and also in the official newspaper of said county, the last of which publications shall not be less than ten nor more than twenty days before the opening of any such term. ('13 c. 147 § 3)

**193. Same—Judge, etc., to be present**—It shall be the duty of one or more judges of the district court, the court reporters, the sheriff or his deputy or deputies, the clerk of the district court or his deputy or deputies, to be present at all terms of court so ordered to be held, to properly attend to the trial and disposition of all cases on the calendar for trial. ('13 c. 147 § 4)

**194. Same—Calendar—Note of issue**—It shall be the duty of the clerk to keep a calendar of actions for trial at such terms, and it shall be the duty of parties litigant entitled to have their action tried in said village of Beaudette as aforesaid to designate the same upon the note of issue to be filed with the clerk of court. ('13 c. 147 § 5)

**195. Same—Court house—Jail—Expenses**—The village of Beaudette shall, previous to the holding of any term of court in said village, and for each of such terms, without expense to the county of Beltrami, provide suitable rooms for the holding of such terms and a proper place for the confinement of prisoners during the session of any such term; and no adjournment of said court shall be made to the village of Spooner, as hereinafter provided, unless the said village of Spooner shall have previously, without expense to said county of Beltrami, provided suitable rooms for the holding of such term and a proper place for the confinement of prisoners during such term. And the county of Beltrami shall reimburse the clerk of said court and the sheriff and county attorney of said county and their respective deputies and the district judges of said district and the court reporters for their traveling expenses actually and necessarily incurred in the performance of their respective official duties. ('13 c. 147 § 6)

**196. Same—Petit jurors**—Petit jurors for each of said general terms shall be selected, drawn and summoned in the same manner in all respects as for the general terms of said court held at the county seat of said county, except that no person residing south of the 14th standard parallel in said county shall be summoned or required to attend as a juror at any such term. ('13 c. 147 § 7)

**197. Same—Appeal from municipal courts and justices**—All appeals from municipal courts and from justices of the peace in either civil or criminal actions shall be heard and tried at such terms in said village of Beaudette in all cases where the court appealed from is situated north of the fourteenth standard parallel, being the township line between townships numbers 156 and 157 in said county; provided, that by consent of the parties thereto such appeal may be tried at the county seat of said county. ('13 c. 147 § 8)

**198. Same—Trial of civil actions**—All civil actions brought in the district court of said county against any party whose place of residence, by the usual route of travel, is situated nearer to the said village of Beaudette than to the county seat of said county shall be tried at the terms of court to be held in said village of Beaudette, unless the place of trial shall be waived by the defendant.

If none of the parties against whom such action is brought shall reside in the county of Beltrami, or if the defendant be a foreign corporation, the ac-

tion may be tried at the village of Beaudette if the plaintiff therein shall so designate as hereinafter provided, subject to the right of a defendant to remove said action as provided by law. ('13 c. 147 § 9)

**199. Same—Place of trial, how determined—Summons—**Any party wishing to have any civil cause commenced by him in said court tried at said village of Beaudette shall, in the summons issued therein, in addition to the usual provisions, print, stamp or write thereon the words "To be tried at Beaudette"; and in all such cases where any summons contains such specification the case shall be tried at said village of Beaudette, unless the defendant shall have the place of trial fixed at the county seat of said county, as hereinafter provided.

If the place of trial designated in any summons is not the proper place of trial, as specified in this act, the cause shall nevertheless be tried at such place unless the defendant in his answer, in addition to the other allegations of defense, shall plead the location of his residence and demand that such action be tried at the place of holding said court nearest his residence, as herein provided; and in any case where the answer of the defendant pleads such place of residence and makes such demand of place of trial, the plaintiff, in his reply, may admit or deny such allegations of residence; and if such allegations of residence be not expressly denied such cause shall be tried at the place so demanded by the defendant, and if they be so denied, then the place of trial shall be determined by the court on motion.

An action for injuries to real estate or for the recovery of real estate or for the partition thereof or involving the title thereto, shall be tried at the terms of court held at said village of Beaudette where the real estate involved in said action is nearer by the usual route of travel to said village of Beaudette than to the county seat of said county.

Nothing in this act contained shall, however, be construed to abridge the power of the court, for cause shown, to change the place of trial of any such action or proceeding, and the court may, upon motion, for the convenience of witnesses remove the trial of any case from said village of Beaudette to said county seat or from said county seat to said village of Beaudette.

All cases pending in said county at the time this act goes into effect which, if brought after such time, could properly be tried at the terms of court to be held at said village of Beaudette may be tried there upon motion of either party thereto. ('13 c. 147 § 10)

**200. Same—Rules, etc.—Adjournment to Spooner—**The judges of the district court shall have full power and authority to make all such rules, orders and regulations as are necessary to carry out the provisions of this act.

The judge or judges holding any of said terms at said village of Beaudette may also, in his, or their, discretion, adjourn the same to some suitable place in the village of Spooner, in said county, to be designated in the order of adjournment, for the trial of any cause or causes pending for trial at said term. ('13 c. 147 § 11)

**201. Same—Actions commenced prior to Jan. 1, 1911—**This act shall not apply to or in any manner affect the place of trial of any action based upon a cause of action arising or accruing prior to January 1st, 1911, whether such action be now pending or hereafter commenced. ('13 c. 147 § 12)

**202. Fourth district—Additional judge—**A judge of the district court for the fourth judicial district of the state of Minnesota, in addition to the present judges of said court, shall be elected at the next general election after the passage of this act by the electors of said judicial district in the manner provided by law for the election of other judges of said court. He shall have all the powers and qualifications provided by law for judges of the district court. His term of office shall commence on the first Monday after the first Tuesday in the month of January after his election and shall continue for the period of six years and until his successor is elected and qualified. ('11 c. 205 § 1)

See §§ 11, 207.

**203. Same—Appointment and election—**Within ten days after the passage of this act the governor of the state of Minnesota shall appoint a suitable and

legally qualified person to hold the position of such judge of the district court in said judicial district until the election of such judge as provided in section 1 [202] of this act, and any vacancy in the position of such judge shall be filled in like manner by the governor of the state until the next general election thereafter. ('11 c. 205 § 2)

204. **Same—Powers—Juvenile court**—Such judge shall have and exercise all the powers of said court as are now or may hereafter be prescribed by law relative to judges of said court. He shall have the management and control of the juvenile court in his district and shall hear and determine all cases, matters and proceedings brought before said juvenile court under the laws of this state; and shall perform all duties now required by law of the judges of the district court so far as the same relate to the management of detention homes in his district and to the treatment and control of dependent, neglected and delinquent children; and the performance of said duties shall take precedence over all other work. ('11 c. 205 § 3)

205. **Same—Presiding judge to designate in case of disability**—In case of absence or sickness or other disability of such judge preventing him from the performance of his duties, the presiding judge of the district court shall designate and assign one of the other judges of the district court to perform the duties of such judge during his absence or disability. ('11 c. 205 § 4)

206. **Same—Salary**—Such judge shall receive the same salary as the other judges of the district court in his district to be paid in the same manner as is now provided by law for the payment of salaries of judges of the district court. ('11 c. 205 § 5)

207. **Fourth district—Additional judge**—A judge of the district court of the fourth judicial district of the state of Minnesota, in addition to the present judges of said court, is hereby authorized and the office of such additional judge is hereby created. ('13 c. 150 § 1)

See §§ 11, 202.

208. **Same—Election**—An incumbent of the office hereby created shall be elected at the general election to be held next after the passage of this act. The person so to be elected shall have and possess the qualifications prescribed by law for the other judges of said court. He shall take office on the first Monday in January, 1915, and shall serve for a term of six years. His successor shall be elected as shall then be provided by law for the election of judges of said court. ('13 c. 150 § 2)

209. **Same—Powers and duties—Compensation**—The incumbent of the office hereby created shall have and exercise all the rights, powers and privileges, and shall be subject to the same duties and obligations as are by law granted to or imposed on the other judges of said court. He shall receive the same compensation as such other judges, to be paid in the same manner and at the same time as the other judges of said court. ('13 c. 150 § 3)

210. **Same—Appointment—Vacancy**—Within ten days after the passage of this act, the governor of the state of Minnesota shall appoint a suitable and legally qualified person to hold the office of judge of the district court of the fourth judicial district hereby created, until the election and taking of office by an incumbent thereof under the provisions of section 2 [208] of this act. Any vacancy in the office hereby created shall be filled in like manner as shall be provided by law for the filling of vacancies in the office of other judges of the district court of said district. ('13 c. 150 § 4)

211. **Seventh district—Three judges**—There shall be elected in the seventh judicial district of said state three judges of the district court of said district, any one or more of whom shall have and exercise the powers of said court, as now prescribed by law relative to the present judges of said court, except as otherwise provided by this act, and all laws now in force, whether general or special, as to the qualifications, election, canvass of votes, oath and term of office, and commencement of such term, compensation, jurisdiction, duties, authority, and powers of the present judges of said district court shall apply to all the judges of said court, and their successors shall be elected, and vacancies in their offices shall be filled as now

provided in relation to the present judges of said district court. Provided, however, that the present judges of the said district court shall be judges of the said court for the unexpired terms for which they were elected or appointed. ('13 c. 320 § 1)

Section 5 repeals inconsistent laws, etc.

**212. Same—Appointment and election—**That immediately upon the passage of this act, the governor of said state shall appoint a competent person to be one of the judges of the said district court, who shall immediately thereafter qualify and enter upon the duties of said office, and shall hold the said office until a successor shall have been elected and qualified, which said successor shall be elected at the next general election after the passage of this act. ('13 c. 320 § 2)

**213. Same—Joint session—**The said judges, or a majority of them, may act in joint session for the trial or determination of any matter before the court, including the trial of jury cases, and when so acting, the judge senior in office or if neither be senior in office, the judge senior in age shall preside, and the decision of the majority shall be the decision of the court. If, however, only two of the said judges are so acting, and there is a division of opinion, the opinion of the presiding judge shall prevail. Process may be tested in the name of either one of the said judges. ('13 c. 320 § 3)

**214. Same—Division of business—**The said judges, or a majority of them, may divide the business of the said court between the said judges, and may otherwise regulate said business by rules, or otherwise; and each of the said judges may separately try court or jury cases during the same term, or at the same time. ('13 c. 320 § 4)

**215. Fifteenth district—Three judges—**There shall be elected in the fifteenth judicial district of said state three judges of the district court of said district, any one or more of whom shall have and exercise the powers of said court, as now prescribed by law relative to the present judges of said court, except as otherwise provided by this act, and all laws now in force, whether general or special, as to the qualifications, election, canvass of votes, oath and term of office, and commencement of such term, compensation, jurisdiction, duties, authority, and powers of the present judges of said district court shall apply to all the judges of said court, and their successors shall be elected, and vacancies in their offices shall be filled as now provided in relation to the present judges of said district court. Provided, however, that the present judges of the said district court shall be judges of the said court for the unexpired terms for which they were elected. ('09 c. 11 § 1)

Section 5 repeals inconsistent laws, etc.

**216. Same—Appointment and election—**That immediately upon the passage of this act, the governor of said state shall appoint a competent person to be one of the judges of the said district court, who shall immediately thereafter qualify and enter upon the duties of said office, and shall hold the said office until a successor shall have been elected and qualified, which said successor shall be elected at the next general election after the passage of this act. ('09 c. 11 § 2)

**217. Same—Joint sessions, etc.—**The said judges, or a majority of them, may act in joint session for the trial or determination of any matter before the court, including the trial of jury cases, and, when so acting, the judge senior in office or if neither be senior in office, the judge senior in age shall preside, and the decision of the majority shall be the decision of the court. If, however, only two of the said judges are so acting, and there is a division of opinion, the opinion of the presiding judge shall prevail. Process may be tested in the name of either one of the said judges. ('09 c. 11 § 3)

**218. Same—Division of business—**The said judges, or a majority of them, may divide the business of the said court between the said judges, and may otherwise regulate said business by rules, or otherwise; and each of the said judges may separately try court or jury cases during the same term, or at the same time. ('09 c. 11 § 4)

## CLERK

**219. Election—Bond—Duties—Not to practice law—**There shall be elected in each county a clerk of the district court, who, before entering upon the duties of his office, shall give bond to the county, to be approved by the county board, in a penal sum not less than one thousand dollars nor more than ten thousand dollars, conditioned for the faithful discharge of his official duties: Provided that, in counties having a population of more than two hundred thousand, the amount of such bond shall be twenty-five thousand dollars, which bond, with his oath of office, shall be filed for record with the register of deeds. Such clerk shall perform all duties assigned him by law and by the rules of the court. He shall not practice as an attorney in the court of which he is clerk. (106)

As to counties having 300,000 inhabitants, see §§ 1030, 1031.

As to counties having over 150,000 and less than 200,000 inhabitants, see §§ 1049, 1050.

Liability on bond (86-188, 90+371, 57 L. R. A. 634, 91 Am. St. Rep. 336).

G. S. 1894 § 857, cited 98-109, 107+547, 8 Ann. Cas. 938.

**220. Money paid into court—Deposited—**Where money is paid into court to abide the result of any legal proceedings, the judge, by order, may cause the same to be deposited in some duly incorporated bank, to be designated by him, or such judge, on application of any person paying such money into court, may require the clerk to give an additional bond, with like conditions as the bond provided for in § 219, in such sum as said judge shall order. For receiving and paying over any money deposited with him, the clerk shall be entitled to a commission of one per cent. on the amount deposited, one-half of such commission for receiving, the other for paying, the same to be paid by the party depositing such money. (107)

**221. Deputies—**By an instrument in writing, under his hand and seal, and with the approval of the judge indorsed thereon, the clerk may appoint deputies, for whose acts he shall be responsible, and whom he may remove at pleasure. The appointment and oath of every such deputy shall be filed with the register of deeds. (108)

As to counties having 300,000 inhabitants, see § 1031.

As to counties having not less than 200,000 and less than 275,000 inhabitants, see § 231.

As to counties having over 150,000 and less than 200,000 inhabitants, see § 1050. 40-65, 70, 41+459.

**222. To search records—Certificate—Public inspection—**The clerk, upon request of any person, shall make search of the books and records of his office, and ascertain the existence, docketing, or satisfaction of any judgment or other lien, and certify the result of such search under his hand and the seal of said court, giving the name of the party against whom any judgment or lien appears of record, the amount thereof, and the time of its entry, and, if satisfied of its satisfaction, and any other entries requested relative to such judgment. But nothing in this section shall prevent attorneys or others from having access to such books and records at all reasonable times, when no certificate is necessary or required. (R. L. § 109, amended '07 c. 203 § 1)

84-439, 87+1126; 93-11, 100+382.

**223. Books to be kept—**Every clerk shall procure, at the expense of his county, and keep, the following books:

1. A register of actions, in which he shall enter the title of each action, whether originally commenced in his said court, or brought there by appeal or transcript of judgment from justice court or from any court of record of the state or the United States, and a minute of each paper filed in the cause, and all proceedings therein.

2. A judgment book, in which every judgment shall be entered.

3. A docket, in which he shall enter alphabetically the name of each judgment debtor, the amount of the judgment, and the precise time of its entry.

4. Indexes, as described in § 224, and such other books as the court, in its discretion, may direct. (110)

19-452, 393; 41-283, 43+3.

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224. **Index of records**—Every clerk shall keep in separate books a plaintiff's and defendant's index to court records, in which all cases shall be entered in alphabetical order under the name of each plaintiff and defendant. They shall set forth the names of the parties, kind of action, term commenced, the record books and pages on which recorded, the term disposed of, date of judgment, book and page of judgment dockets, execution dockets, fee books, satisfied or not satisfied, and number of case. The defendant's index shall be ruled and printed in the same manner as plaintiff's except that the parties shall be reversed. They shall be ruled and printed substantially as follows:

| Paintiffs        | Defendants                    | Kind of Action               | Term Commenced                | Record Book           | Pages                      |                 |
|------------------|-------------------------------|------------------------------|-------------------------------|-----------------------|----------------------------|-----------------|
| Term disposed of | Date of Judgment<br>Month Day | Judgment Docket<br>Book Page | Execution Docket<br>Book Page | Fee Book<br>Book Page | Satisfied or not Satisfied | Number of Cases |

(111)

225. **Clerk in certain counties to index certain cases**—The clerk of the district court in any county in this state, having a population of less than 50,000 inhabitants, is hereby authorized and directed to index in records, now provided for in section 111, Revised Laws, Minnesota, 1905 [224], all cases on file in his office prior to March 7, 1885. ('07 c. 312 § 1)

226. **Same—Compensation**—The clerk of the district court shall receive as compensation for such services such sum as may be fixed by the judge of said court, not to exceed the sum of ten cents for each index to be allowed by board of county commissioners as other claims are allowed. ('07 c. 312 § 2)

227. **Return in criminal cases to county attorney**—The clerk of every court of record having criminal jurisdiction, within ten days after the adjournment of any such court, shall tax the costs or disbursements paid or incurred by the state in the trial of each criminal case tried during such term, enter the amount thereof in the record in each, and forthwith report to the county attorney the amount of such costs and disbursements taxed in each case, the amount of fines imposed, and the amount thereof paid. (112)

228. **To enter unregistered cases**—Every clerk shall enter upon the proper registers all cases, civil and criminal, which, through a mistake, inadvertence, or neglect of his predecessor in office, have not been registered. The true date of the filings in such cases shall be entered in said registers, and said entries, when so made, shall have the same force and effect as if made by the clerk at the proper time: Provided that, in docketing any judgment, the date thereof shall be the time when actually docketed, and the lien thereof shall attach only from such date. (113)

229. **Printed calendars**—The clerk of the district court in each of the several counties of this state shall provide printed calendars of the cases to be tried at the general terms thereof at the expense of the counties where such court is held. Provided, that this act shall not apply to a county constituting one judicial district where only one term of court is held each year. ('09 c. 369 § 1)

230. **Vacancy**—Vacancies in the office of the clerk shall be filled by appointment by the judge. The appointee shall give the bond and take the oath required by law, and shall hold his office until the next general election, and until his successor qualifies. In case any such clerk is adjudged insane, the judge shall appoint a competent person to act as clerk in his place until he shall be duly declared restored to sanity. The person so appointed shall take the oath and give the bond required by law of clerks of the district court, and shall be entitled to the fees and emoluments of

the office during the time he shall so act, and his acts shall have the same force and effect as if performed by such clerk. (114)

15-198, 153; 64-207, 66+264.

**231. Counties having not less than 200,000 and less than 275,000 inhabitants—Clerks and deputies—Salaries—**In all counties of this state that now have or may hereafter have a population of not less than two hundred thousand and less than two hundred and seventy-five thousand inhabitants, the salary of the clerk of the district court shall be forty-five hundred dollars per annum. In all such counties said clerk shall appoint and employ eleven deputy clerks of said district court, whose duties shall be designated by said clerk and who shall be paid the following salaries: one deputy clerk who shall be paid twenty-five hundred dollars per annum, one deputy clerk who shall be paid eighteen hundred dollars per annum, one deputy clerk who shall be paid fifteen hundred dollars per annum, one deputy clerk who shall be paid fourteen hundred dollars per annum and seven deputy clerks who shall each be paid twelve hundred dollars per annum. ('11 c. 80 § 1, amended '13 c. 190 § 1)

'13 c. 190 § 2, repeals inconsistent acts, etc.

**232. Same—Salaries, how paid, etc.—**The above salaries shall be paid monthly in the same manner as the salaries of other county officials are now paid and shall be in full compensation for all services rendered by said clerk and by said deputy clerks in their official capacity. ('11 c. 80 § 2)

**233. Same—Deputy clerk for juvenile division—**That in counties having not less than two hundred thousand nor more than two hundred seventy-five thousand inhabitants, the judge assigned to hear and try cases under the juvenile court act, shall designate a duly appointed deputy clerk of the district court to act as clerk of the juvenile division of the district court, which deputy shall be in addition to the deputy clerks now provided by law. ('11 c. 122, amended '13 c. 191 § 1)

**234. Same—Duties—**Said clerk of the juvenile division of the district court shall keep all books and records thereof, issue summons and process, attend to correspondence in connection with said court, and in general perform such duties in the administration of said court, as the judge may direct. ('11 c. 122, amended '13 c. 191 § 1)

**235. Same—Salary—**The salary of such clerk of the juvenile division of the district court in any such county is hereby fixed at eighteen hundred (1800) dollars per annum, payable out of the county treasury in equal monthly installments. ('11 c. 122, amended '13 c. 191 § 1)

**236. Counties having less than 45,000 inhabitants—Salary—**In all counties of the state of Minnesota having a population of less than forty-five thousand (45,000) inhabitants, the clerks of the district court thereof shall receive an annual salary in lieu of all fees as provided by law for official services rendered by them for their counties, as hereinafter provided. ('09 c. 335 § 1)

**237. Same—Counties classified—**For the purpose of fixing the salary of the clerk of the district court of the several counties of the state of Minnesota, having a population of less than forty-five thousand (45,000) inhabitants, such counties are hereby classed as follows:

Such counties having a population of less than seven thousand (7,000) shall be known as class "A"; those counties having a population of seven thousand (7,000) and less than twelve thousand (12,000) shall be known as class "B"; those counties having a population of twelve thousand (12,000) and less than eighteen thousand (18,000) shall be known as class "C"; those counties having a population of eighteen thousand (18,000) and less than twenty-four thousand (24,000) shall be known as class "D"; those counties having a population of twenty-four thousand (24,000) and less than thirty-five thousand (35,000) shall be known as class "E"; those counties having a population of thirty-five thousand (35,000) and less than forty-five thousand (45,000) shall be known as class "F."

The county auditor in determining the population of any county for the

purpose of ascertaining the compensation to be paid to the clerk of the district court of such county, as herein provided, shall take the census of the year 1910, or any census thereafter taken by the United States or by the state of Minnesota, and add two per cent to the population as shown by the census last taken for each year expiring after the year in which such census was taken. ('09 c. 335, amended '13 c. 511 § 1)

238. **Same—Amount of salary, etc.**—The several clerks of the district court, as aforesaid, shall receive in full compensation for all services rendered by them for their respective counties, except in real estate tax proceedings, in lieu of the fees now provided by law, a yearly salary, payable monthly out of the county revenue fund by the treasurer of the county upon the warrant of the county auditor, as follows: Clerks of court of counties of class "A," six hundred and fifty dollars (\$650.00); of class "B," seven hundred and fifty dollars (\$750.00); of class "C," eight hundred dollars (\$800.00); of class "D," nine hundred dollars (\$900.00); of class "E," one thousand dollars (\$1,000.00); of class "F," or any counties with a taxable valuation of more than six million dollars wherein during the preceding year the grand jury returned indictments against at least twenty (20) separate defendants, or wherein the district court shall have been held for forty (40) days or more, eleven hundred dollars (\$1,100.00). For all services rendered by such clerks except as included in this act, the clerk shall receive the same fees and compensation as now provided by law. Provided, that in counties having a taxable valuation of less than six million dollars, or counties having less than fifteen thousand inhabitants the salary shall be one hundred dollars less than the sum fixed herein. Whenever it shall appear to the county board of any county containing such valuation or population, upon a showing made by the clerk thereof that the salary herein provided is inadequate for the services performed by such clerk for such county, the county board may increase such salary at any regular meeting of such board to a just and reasonable salary for the services of such clerk. If dissatisfied with the action of the county board any clerk may appeal to the district court within thirty days by filing with the auditor, a notice thereof. The court either in term or vacation and upon eight days' notice to the chairman of the county board, shall hear such appeal and summarily determine the amount of such salary for the term of office by an order, a copy of which shall be filed with the county auditor. Provided, that in counties with a taxable valuation of less than six million (6,000,000) dollars, the clerk shall be allowed no fees in excess of one thousand (1,000) descriptions for entering the annual real estate judgments, but such fees shall nevertheless be included in every case in entering said judgments. ('09 c. 335 § 3)

239. **Same—Acts repealed**—All acts and parts of acts either general or special, except chapter 423 and 424 of the Special Laws of Minnesota for the year 1891 and except subdivision 49 of section 2694 Revised Laws 1905 [5756], inconsistent herewith are hereby repealed. ('09 c. 335 § 4)

#### STENOGRAPHIC REPORTERS

240. **Appointment—Duties—Bond**—Each judge, by duplicate orders filed with the clerk and county auditor of the several counties of his district, may appoint a competent stenographer as reporter of the court, to hold office during his pleasure, and to act as his secretary in all matters pertaining to his official duties. Such reporter shall give bond to the state in the sum of two thousand dollars, to be approved by the judge appointing him, conditioned for the faithful and impartial discharge of all his duties, which bond, with his oath of office, shall be filed with the clerk in the county in which the judge resides. (115)

241. **Duties as to reports**—Such reporter shall make a complete stenographic record of all testimony given and all proceedings had before the judge upon the trial of issues of fact, with or without a jury, or before any referee appointed by such judge. In so doing, he shall take down all questions in the exact language thereof, and all answers thereto precisely as given by the witness or by the sworn interpreter. He shall also record, verbatim, all objections made, and the grounds thereof as stated by counsel, all

rulings thereon, all exceptions taken, all motions, orders, and admissions made, and the charge to the jury. When directed so to do by the judge, he shall make a like record of any other matter or proceeding, and shall read to such judge or referee any record made by him, or transcribe the same, without charge, for any purpose in furtherance of justice. (116)

**242. Record to be filed—Transcript—**As soon as the trial is ended, the reporter shall file his stenographic record thereof with the clerk, or elsewhere if the judge shall so direct, and, upon request of any person interested, and payment or tender of his fees therefor, he shall furnish a transcript of such record in the words and figures represented by the characters used in making the same, and for that purpose he may take and retain such record so long as may be necessary, when it shall be returned to the files. (117)

**243. To act when another judge presides—**Unless otherwise directed by the judge appointing him, the reporter shall serve as such in all matters heard by another judge when acting in place of the former, and shall perform in relation to such matters all the duties required of him by law. (118)

**244. Salaries—**The judges, by an order filed with the county auditors annually on or before the first Monday in May, 1909, and on or before the first Monday in January, annually thereafter, shall apportion the salaries of the reporters in their respective districts among the several counties. Such salary shall be fixed by such order at not exceeding two thousand dollars per year, and each county shall be required by such order to pay a specified amount thereof in monthly installments, which amount shall be such proportion of the whole salary as the number of days work actually done by a reporter in the trial of cases in said county during the preceding year bears to the whole number so performed in the district. Such stenographic reporters shall have and maintain their residences in their respective judicial districts. But if any reporter be appointed in two or more districts he may reside in any of the same. (R. L. § 119, amended '09 c. 168 § 1)

See, also, 1909 c. 285, and 1913 c. 343, amending G. S. 1894 § 4890 (1874 c. 88 § 4). 1874 c. 88, was not among the Session Laws of that year repealed by R. L. § 5527 [9437].

**245. Fees—**In addition to such salary, the reporter may charge for a transcript of his record, ordered by any person other than the judge, eight cents per folio thereof, and two cents per folio for each manifold or other copy thereof when so ordered that it can be made with such transcript. (120)

**246. Readjustment of salaries on change of district—**That whenever a new judicial district is created, or the boundary lines of a judicial district is changed, the judge or judges of such district or districts shall, within thirty (30) days after the establishing of such new district or the changing of such boundary lines, file an order readjusting the salaries of court reporters and the proportions to be paid by the several counties, with the several county auditors in each district, to conform to such changes, and the filing of such order shall vacate and set aside any and all orders then on file with such auditors. ('07 c. 242 § 1)

**247. Existing laws not affected—**Nothing in this chapter shall be construed as repealing or modifying existing laws relating to the office of court reporter in any judicial district which contains a city of the first class. (121)

**248. Phonographic reporters in district comprising county having 292,000 inhabitants—**That each judge in any judicial district in this state which comprises, or which may hereafter comprise, a single county of two hundred and ninety-two thousand inhabitants or over, may appoint a phonographic reporter, who shall be well skilled in his profession and competent to discharge the duties required, and who shall be a sworn officer of said court, and shall hold his office during the pleasure of said judge so appointing him. The salary of said reporter shall be two thousand dollars per annum, payable in monthly installments by the county treasurer of the county comprised in such judicial district, from any funds in his hands not otherwise appropriated. ('07 c. 186 § 1)

Section 3 repeals Sp. L. 1891 c. 370, providing for phonographic reporters in Hennepin county.

249. **Same—Duties—Fees**—It shall be the duty of said phonographic reporters and each thereof, to take or cause to be taken, full phonographic notes of all trials and proceedings in said court before the judge so appointing him, whenever so directed; and each of said reporters shall act in the capacity of a private secretary to the judge so appointing him, whenever so directed by said judge, in taking notes of any findings, decisions or orders of said judge, so given or rendered in open court or dictated at chambers to said reporter, and each of said reporters shall, when requested by said judge so appointing him, without charge therefor, transcribe said notes, or any part thereof, for the use of said judge, or for such other purpose in furtherance of justice as said judge may order; and each of said reporters shall furnish a freehand or typewritten copy of said notes, or any part thereof, at the request of any party to an action in said court, for which copy he shall be entitled to charge at the rate of ten (10) cents per folio, or for every hundred words so written out; and whenever such transcript has been filed as provided by the rules of the court, the amount paid by any party for such copy to be used upon a motion for a new trial or appeal may be taxed and allowed as other disbursements are taxed and allowed in an action. ('07 c. 186 § 2)

250. **Phonographic reporter in district comprising county having more than 200,000 and less than 292,000 inhabitants**—That the judges of the district court in any judicial district in this state which comprises, or which may hereafter comprise, a single county having a population of more than two hundred thousand (200,000) and less than two hundred ninety-two thousand (292,000) inhabitants, may appoint a phonographic reporter, who shall be a sworn officer of said court, and who shall hold his office during the pleasure of the judges so appointing him, and shall devote his entire time and attention to the duties of such office and shall not accept other employment during his term. Said reporter shall be well skilled in his profession and competent to discharge the duties required. The salary of said reporter shall be thirteen thousand dollars (\$13,000) per annum, payable in monthly installments, by the county treasurer of the county comprised in such judicial district, from any funds in his hands not otherwise appropriated. Provided, however, that in case said judges shall exceed six (6) in number, the compensation of said reporter shall be increased two thousand dollars (\$2,000) per annum for each additional judge. ('13 c. 249 § 1)

Section 3 repeals inconsistent acts, etc.

251. **Same—Duties—Fees**—It shall be the duty of said phonographic reporter to take or cause to be taken full phonographic notes of all trials and proceedings in said court before the judges so appointing him, whenever so directed by said judges; and said reporter shall act in the capacity of secretary to said judges whenever so directed by them, or either of them, in taking notes of any findings, decisions or dictations by said judges, given or rendered in open court or at chambers, and said reporter shall, when requested by said judges, without charge therefor, transcribe said notes, or any part thereof, for the use of said judges. For furnishing a copy of said notes, or any part thereof, at the request of any party to an action in said court, said reporter shall be entitled to charge and receive from such party ten (10) cents per folio of one hundred (100) words, and three (3) cents per folio for each duplicate copy furnished to such party. And such transcript fee, when used for the purposes of a case or bill of exceptions, may be included in the taxable disbursements of the action. It shall also be the duty of said reporter to take and transcribe such notes of the testimony and proceedings in the juvenile division of said court as the judge therein presiding may direct, without charge therefor. ('13 c. 249 § 2)

### SALARIES

252. **Supreme and district courts, etc.**—The annual compensation of the judges and other officers of the judicial department hereinbefore named shall

be as follows, all to be paid by the state unless otherwise specified, and in monthly installments:

First: The justices of the supreme court, seven thousand dollars each;

Second: The clerk thereof, fifteen hundred dollars, and his deputy, one thousand dollars; and in addition to his salary the clerk shall receive such fees as are allowed by law;

Third: Each stenographer, such sum as shall be fixed by the justice appointing him, not to exceed nine hundred dollars;

Fourth: The reporter of said court, three thousand seven hundred dollars;

Fifth: The marshal thereof, nine hundred dollars;

Sixth: The janitor, nine hundred dollars;

Seventh: The state librarian, two thousand dollars; assistant librarian, fifteen hundred dollars; second assistant librarian, one thousand dollars, and clerk, nine hundred dollars;

Eighth: The judges of the district court, four thousand two hundred dollars (\$4,200) each from the state, and fifteen hundred dollars (\$1,500) additional, payable monthly, from each county in their respective districts having a population of seventy-five thousand or more. (R. L. § 122, amended '07 c. 175; '09 c. 252 § 1; '11 c. 301 § 1)

From August 1, 1913, this section will be superseded, except as to subdivisions 2 and 8, by 1913 c. 400 (§§ 294-297). Subdivision 2 will be superseded January 1, 1915. See § 297.

R. L. § 123, making standing appropriations, was in effect repealed by §§ 48, 49.

**253. District court judges—Traveling expenses**—The judges of the district court shall be paid, in addition to the amounts now provided by law, all sums they shall hereafter pay out as necessary railway, traveling and hotel expenses while absent from their places of residence in the discharge of their official duties. Each judge shall file quarterly with the state auditor an itemized statement, verified by him, of all such expenses actually paid by him during the preceding quarter, which shall be audited by said state auditor and paid upon his warrant. ('13 c. 466 § 1)

**254. Retirement of district or supreme court judges**—Whenever a judge of the supreme court or district court in this state shall become incapacitated physically or mentally from performing his judicial duties during the remainder of his term of office and shall make a written application to the governor for his retirement, setting forth the nature and extent of such disability, the governor shall make such investigation as he shall deem advisable and if he shall thereby determine that such disability exists, and that the public service is suffering and will continue to suffer by reason of such disability, he shall thereupon by written order, to be filed in the office of the secretary of state, direct the retirement of such judge for the unexpired portion of the term for which such judge was elected, which retirement shall create a vacancy in said office, which shall be filled by appointment, as provided by law.

Provided, that when the disability is mental and to an extent that renders such judge incompetent to make such application, the same may be made by the legally appointed guardian of such judge. ('13 c. 269 § 1)

**255. Same—Compensation**—When a judge shall be retired under the provisions of section one [254] of this act, he shall receive the compensation allotted to his office by law for the remainder of his said term, to be paid at the time and in the manner provided by law. ('13 c. 269 § 2)

## MUNICIPAL COURTS

See 1907 c. 176, establishing a municipal court in the village of International Falls, and 1913 c. 33, establishing a municipal court in the village of Crosby, subject to the provisions of this chapter.

**256. Existing courts confirmed**—The several municipal courts organized, and in the actual exercise of their functions, at the time when the Revised Laws shall take effect, are hereby confirmed; and the jurisdiction thereof, the practice and procedure therein, the tenure and compensation of the judges and other officers thereof, and the taking of appeals therefrom,

shall continue in all things to be governed by the laws relating thereto in force at the time of the enactment of said Revised Laws, notwithstanding the repeal thereby of any existing statute. All municipal courts thereafter established, shall be organized and governed under and pursuant to the provisions of this subdivision and not otherwise. (124)

112-136, 127+473; 112-482, 128+834.

**257. Oaths and bonds**—The oaths, and bonds when required, after their approval, of all judges and clerks of municipal courts, whether organized under special or general law, shall hereafter be filed with the secretary of state. They shall be in such form as the attorney general shall prescribe. ('09 c. 116 § 1)

**258. Same—To be forwarded to secretary of state**—The present several custodians of the oaths and bonds of all such officers now acting, shall, prior to May 1, 1909, forward the same to the secretary of state, who shall receipt therefor and likewise file and record the same. ('09 c. 116 § 2)

**259. New courts, how established**—A court of record to be known as "the municipal court of ——" is hereby established in and for every city, and in and for every incorporated village, which has or shall have one thousand (1,000) inhabitants or more, in which city or village no municipal court existed at the time of the taking effect of the Revised Laws of 1905, but no court thus established shall be organized until the city or village council so determines by a resolution adopted by a four-fifths majority of its members, and approved by its mayor or president, providing a suitable place for holding its sessions, prescribing the number of judges and other officials thereof, and fixing their compensation; and in case that two judges shall be prescribed for said court, one thereof may be called the municipal judge and the other the special municipal judge. (R. L. § 125, amended '13 c. 104 § 1)

**260. Application to existing courts**—By a like resolution, adopted and approved as specified in § 259, the council of any village, or of any second, third or fourth class city, may adopt the provisions of this subdivision for the future government of the municipal court of such city or village. Thereupon, said court shall in all things be subject to the provisions hereof; but the tenure and compensation of the several officers thereof shall not be curtailed during the terms for which they were chosen, nor shall any action or proceeding then pending therein be discontinued, nor shall any judgment or decision thereof be affected, by such change. (126)

112-136, 127+473.

**261. Judges—Election—Term—Salary**—The judges of such courts shall be elected at the regular city or village elections, for the term of four years, beginning on the first Monday of the month next following their election, and until their successors qualify. When a new court is organized more than ninety (90) days prior to a regular election, the governor shall appoint a judge or judges thereof to serve until they are elected and qualified, and vacancies shall be filled by like appointment for the unexpired term. Provided, that in the absence or disability of the municipal judge and special municipal judge of such court, if there be one, the mayor or president of the council may designate a practicing attorney to sit in place of such municipal judge from day to day. All municipal judges and special municipal judges shall be men learned in the law and residents of the city or village. The salary of each shall be paid monthly by the city or village, and shall be fixed by resolution adopted by a four-fifths majority of the council of such city or village, and approved by the mayor or president before the term begins, and shall not be diminished during such term. Provided, however, that where there shall be a municipal judge and a special municipal judge, the special municipal judge shall act only in the absence or disability of the municipal judge, and receive as compensation therefor an amount per diem to be fixed by the council of such village or city and paid out of the salary of the municipal judge; and provided further, that any such special municipal judge shall not be prohibited from practicing in the

said municipal court or in any other court, but he shall not sit in the trial of any cause or proceeding wherein he may be interested, directly or indirectly, as counsel or attorney, or otherwise." (R. L. § 127, amended '13 c. 104 § 1)

**262. Jurisdiction**—Every municipal court shall be a court of record and its jurisdiction shall be coextensive with, and limited to, the county or counties in which the city or village lies. It may try and determine civil actions:

1. Arising on contract, for the recovery of money only, when the amount claimed does not exceed five hundred dollars.

2. For damages for injury to the person or to real property, or for taking, detaining, or injuring personal property, when the amount claimed, or, in replevin, the value of the property in controversy, does not exceed five hundred dollars.

3. For a penalty given by statute, not exceeding five hundred dollars, or upon a bond conditioned for the payment of money, whatever the penalty thereof, when the amount claimed does not exceed five hundred dollars.

4. On an official bond, or any bond taken in a municipal court, if the penalty does not exceed five hundred dollars.

5. For forcible entry and unlawful detainer, whether involving the title to real estate or not.

It may also take and enter judgments by confession to an amount not exceeding five hundred dollars, and shall have all the powers and jurisdiction, civil and criminal, of courts of justices of the peace. (128)

**263. Jurisdiction withheld**—Except as provided in § 262, subd. 5, no municipal court shall have jurisdiction of civil actions involving the title to real estate, or of any action:

1. For a divorce;

2. To recover damages for false imprisonment, libel, slander, malicious prosecution, criminal conversation, seduction, or breach of promise to marry;

3. Wherein equitable relief is demanded;

4. Against an executor or administrator, as such; or

5. Against the city, village, or county.

Nor shall such court have power to issue writs of habeas corpus, quo warranto, ne exeat, mandamus, prohibition, or injunction. (129)

109-208, 123+406.

**264. Defences in excess of jurisdiction—Procedure**—Whenever a counterclaim in excess of five hundred dollars is asserted, or an equitable defence is interposed, or it shall appear that the title to real estate is involved in any action other than for a forcible entry or unlawful detainer, the fact shall be recorded, and the clerk shall transmit to the clerk of the district court a certified transcript of the record, and all papers filed in the case. Thereafter the cause shall proceed to judgment in said district court as if it had been there begun, and the costs shall abide the event. (130)

109-208, 123+406.

**265. Criminal jurisdiction—Justices of the peace**—No justice of the peace shall have jurisdiction of offenses committed in any city or village wherein a municipal court is organized and existing, but all such offenses otherwise cognizable by a justice shall be examined and tried by such municipal court, and, all cases arising under the charter, ordinances, or by-laws of such city or village shall be tried by said court without a jury. Said court shall have jurisdiction concurrently with the justices of all offenses committed elsewhere within the county. (R. L. § 131, amended '13 c. 104 § 1)

117-173, 134+509.

**266. Two judges—Daily sittings—Terms**—Excepting in cases where the resolution establishing such court provides for a municipal judge and a special municipal judge, each may exercise all the powers thereof. Each judge shall see that the laws of the state and the ordinances and by-laws of the city or village are obeyed. The court shall be opened every morning,

except on Sundays and holidays, for the hearing and disposition, summarily, of all complaints made of offenses committed within the county, of which the court has jurisdiction. A general term for the trial of civil actions shall be held on and following the first Tuesday of each month, and at such other times as the court may from time to time prescribe by rule. (R. L. § 132, amended '13 c. 104 § 1)

**267. Clerks and deputies—Process—**The clerk of each municipal court, and his deputies, shall be appointed by the judge thereof, who may remove any of them at pleasure. If there be two judges, the senior in office shall exercise such power. Every clerk and deputy shall give bond to the state, in at least the sum of one thousand dollars (\$1,000.00), to be approved by the appointing judge, conditioned for the faithful discharge of his official duties, and for the payment as required by law or by order of the court of all moneys coming into his hands. All process shall be tested in the name of the judge, or the senior in office if there are two, be signed by the clerk, issue under the seal of the court, and be directed for service to any police officer, court officer, marshal, or constable of the city or village, to the sheriff of the county, or all of them. No judge or other officer of such municipal court, excepting the special municipal judge, if any, shall prepare or draw any pleadings or other papers in any civil actions in said municipal court, nor shall they institute, for another, any civil action in such court. (R. L. § 133, amended '13 c. 104 § 1)

**268. Clerk to receive and pay over fines, etc.—**The clerk shall receive all fines, deposits, penalties, and other moneys paid into court, and keep detailed accounts thereof. Upon filing the weekly reports provided for in § 269, he shall pay to the treasurer all sums then in his hands, except such fees as he is entitled to retain as part of his compensation. (134)

**269. Weekly report of clerk—**On Monday of each week the clerk shall file with the treasurer of the city or village a verified report, showing:

1. The names of all persons convicted in such court during the preceding week, and the nature of the offence.
  2. The fine or other punishment imposed upon each.
  3. The amount paid by each, and the amount of cash deposited in lieu of bail, since his last report.
  4. The total amount of money received from all sources during the same period.
  5. The names of all persons discharged from jail by order of the court.
- (135)

**270. Court officers—**In cities and in villages of less than five thousand (5,000) population, the constable, marshal or chief of police shall act as officer of the municipal court, serve all papers thereof placed in his hands, and receive the same fees as are allowed to constables by law. In cities and villages of five thousand (5,000) population or more, the mayor or president shall appoint one or more (not exceeding three) court officers, who shall also have the power and authority of policemen, receive the same pay as other policemen, and shall give bond to the city or village, for the use of all persons interested, to be approved by the council of such city or village and conditioned for the faithful performance of their duties as such. Their fees shall be collected by the clerk and paid into the treasury of the city or village, except where no salary is allowed them. Court officers shall attend the sessions of the court and perform all duties in connection therewith, when ordered by the court. (R. L. § 136, amended '13 c. 104 § 1)

**271. Reporter—Duties—Fees, etc.—**In cities of the second class, and elsewhere when the appointment and compensation of a reporter is provided for by resolution of the council, the judge may employ a shorthand reporter of its proceedings, and may dismiss him at pleasure. When requested by a party, the reporter shall make and furnish a transcript in longhand of the whole or any part of the testimony taken, or of any proceeding in court, upon being paid therefor such sum per folio as the court, by its rules, shall prescribe. And when so directed by the judge, he shall furnish such

copy for the judge's use, and act as a referee to take and report testimony, without compensation other than his salary. (137)

**272. Powers and duties—Practice—Rules—Fees—**Except as otherwise provided by this chapter, the municipal court and the judges and clerks thereof, shall have in matters within its jurisdiction, all the powers and duties of judges and clerks of the district court in like cases, and the procedure and practice therein shall be the same. In garnishment, however, the minimum of indebtedness and recovery shall be the same as in the justices' courts. The court may make and alter rules for the conduct of its business, and prescribe therein forms of process and procedure, conformably to the law. The fees of the clerk of each municipal court and of officers serving process and papers therein, shall be the same as are allowed by law to the like officers of the district court of the same county. If such officers are paid a salary in lieu of fees, they shall nevertheless collect such fees and pay the same into the city or village treasury, and shall be responsible for such collection. Where, in any county of this state there are two or more municipal courts having jurisdictions throughout said county, whether they be created or established under chapter five (5), Revised Laws of Minnesota for 1905, or by any other general or special law; the defendant in any civil action begun in any one of said courts may have a change of venue therefrom to the municipal court in said county nearest his place of residence, by filing with the clerk of the municipal court, in which such action may be begun, an affidavit, by himself, his agent or attorney, stating definitely his place of residence, and the location of the nearest municipal court thereto in said county, accompanied by a demand for such change of venue, not less than three (3) days before the opening day of the term of such municipal court at which such action may be noticed for trial. (R. L. § 138, amended '13 c. 104 § 1)

The provisions of R. L. 1905 c. 5, are included in chapter 5 hereof.

**273. Costs and disbursements—**Costs in civil actions shall be allowed as follows:

1. To the plaintiff, upon a judgment in his favor of fifty dollars or more in an action for the recovery of money only, when no issue of law or fact is joined, five dollars; when issue is joined, ten dollars; in all other actions, five dollars.

2. To the defendant, upon discontinuance or dismissal, five dollars; upon a judgment in his favor upon the merits, five dollars; and, if the amount of plaintiff's claim be fifty dollars or more, ten dollars.

3. To the prevailing party on demurrer or motion, in the discretion of the court, ten dollars or less, which may be made absolute or to abide the event.

In all cases the prevailing party shall be allowed his disbursements. (139)

**274. Notices, etc.—Unlawful detainer—**Costs shall be taxed upon notice of not less than two (2) days. Notes of issue shall be filed at least three (3) days before the term. Notice of taking a deposition shall be the same as in the district court. Otherwise the time within which pleadings may be served and other acts performed shall be half that prescribed in the district court, but no such half time shall be less than three (3) days. In forcible entry and unlawful detainer, the summons shall be issued by the clerk and may be made returnable on any day not less than three (3) days after the issuance of such summons; and in other respects such suits shall be governed by similar regulations relating to justices of the peace. (R. L. § 140, amended '13 c. 104 § 1)

**275. Jury trials—**Except as in this chapter otherwise provided, all general laws relating to trial by jury in the district court shall apply to this court. In such cities and villages, the mayor and city clerk in cities, and the president and village clerk in villages, or in the absence or disability of either, the officer authorized to perform his duties, shall meet with the judge or clerk of the municipal court at the city or village clerk's office on the second Monday in February, May, August and November of each year, and there shall select one hundred (100) voters of the city or village as jurors of said court when required and drawn as such during the ensuing three (3) months, and

until their successors are chosen. Their names shall be listed, and the list certified by the officials selecting them, and the clerk shall place such names, written on separate slips, in a box or wheel. No person shall be required to serve as such juror during more than one quarter in any one year. (R. L. § 141, amended '13 c. 104 § 1)

**276. Drawing jury—Fees—Special venire—**In all cases if either party desires a jury, he shall so state when the case is set for trial. A jury of six may be drawn if both parties consent thereto in open court. The party demanding the jury shall pay to the clerk at the time fifty cents (50c) for each juror required, otherwise the case shall be tried by the court. The clerk shall draw from the box twice as many names as there are jurors required for the trial, and the persons so selected shall be summoned to appear at the appointed time. Each juror sworn as such shall be paid one dollar (\$1.00) out of the city treasury upon a certificate issued to him by the clerk at the time of his discharge. Whenever necessary, a special venire may be issued. (R. L. § 142, amended '13 c. 104 § 1)

**277. Fees in criminal cases—What attorneys to prosecute—Fees in civil cases—**In all municipal courts, jurors in criminal cases and witnesses for the prosecution shall be paid by the city or village upon certificates issued by the clerk. Witnesses for the defense in such cases may be paid in like manner when the court shall so direct. The fees of witnesses shall be the same, in both civil and criminal cases, as are allowed by law in the district court; but in criminal cases fees shall not be required in advance, nor shall policemen or other officials or employees of the county, city or village be paid witness fees. Misdemeanors and violations of ordinances or by-laws shall be prosecuted by the city or village attorney, and all other offenses by the county attorney. In civil cases there shall be paid to the clerk of the court a fee of two dollars (\$2.00) by the party entering the suit, which fee shall be accounted for and paid over to the city or village, and shall be in lieu of all fees of the clerk of said court. (R. L. § 143, amended '13 c. 104 § 1)

**278. Retrial of title to lands—**The defeated party in an action wherein the title to land is involved, and which has been determined against him, may secure a second trial thereof in the district court by:

1. Depositing with the clerk, within twenty-four hours after notice of the judgment, the amount of all costs and disbursements included therein.

2. Serving notice upon the adverse party, within forty-eight hours, that he will apply to the court, on the first day of the next term occurring more than four days thereafter, for an order transferring the case to the district court for such trial, and fixing the amount of the bond hereinafter mentioned. And the names of his proposed sureties shall be inserted in said notice.

3. Giving bond to the adverse party, in such amount and with such sureties as the court shall fix and approve, conditioned for the payment to him or his assigns of all costs and disbursements which he shall recover upon such second trial, and of all rents, profits, and damages accruing or resulting to him during the pendency of the action, and to abide by any order the court may make therein. Upon the filing of such bond, duly approved, within five days after the amount thereof is so fixed, the court shall cause the case to be forthwith certified and transmitted to the clerk of the district court, with all the papers on file therein. Upon service of the notice herein provided for, all proceedings under the judgment shall be stayed until otherwise ordered. (144)

**279. Lien of judgments—Transcripts—Execution, etc.—**No judgment of a municipal court shall be a lien upon the real estate until a transcript thereof is filed and docketed with the clerk of the district court. If no execution thereon be outstanding, the judgment creditor may cause such transcript to be docketed in the same county, and thereafter execution may issue from either court. The clerk with whom the transcript is so filed may issue transcripts to be filed and docketed in other counties, as in the case of a judgment originally rendered in his court. When docketed as herein provided, the judgment shall have the same force and effect, in all respects, as a judgment of the district court. (R. L. § 145, amended '13 c. 104 § 1)

**280. Appeals to district court**—Appeals may be taken to the district court of the county from the judgments of municipal courts in the same cases, upon the same procedure, and with the same effect as provided by law respecting appeals from justices' courts, and all laws relating to such last named appeals shall be adapted and applied to appeals from the municipal courts. Provided, however, that the time for appeal shall not start to run until the judgment has been perfected, the costs taxed and notice of entry of judgment served upon the adverse party. (R. L. § 146, amended '13 c. 104 § 1)

109-292, 123+809.

**281. Courts in cities of fourth class—Salary of judge—Court, how organized—Fees, etc.**—Whenever the common council of any city of the fourth class, where any municipal court heretofore has been or hereafter shall be organized, shall fail to fix the salary of the municipal judge, as provided for by law, or the mayor shall not approve the salary fixed by the council, such judge shall receive as his compensation until such salary shall be so fixed and approved the same fees as is provided for in section 32 of chapter 229 of the General Laws of the state of Minnesota for the year 1895, and shall, in addition to his duties as such judge, perform the duties incumbent on the clerk of such municipal court.

The common council in cities of the fourth class, having a population of less than five thousand inhabitants, which heretofore has been or hereafter may be incorporated under the laws of this state, and which have not organized a municipal court at the time of the passage of this act, may by resolution adopted by its common council or governing body and approved by its mayor, organize such a court under and by virtue of and with such jurisdiction and powers as are conferred by chapter 229 of the General Laws of Minnesota for 1895 and amendments thereto, and the judge of any court so organized shall, in addition to his duties as judge, perform the duties otherwise incumbent or imposed by law on the clerk of such municipal court.

In addition to the other powers now granted to the common council of any city of the fourth class by law, which powers are not abridged or impaired by anything herein contained, such common council shall have the power to fix the salary of any such judge, which salary may be fixed by resolution adopted by such council and approved by the mayor and shall not be diminished during his term.

Any municipal court to which the provisions of this act shall apply shall be governed as near as may be under and pursuant to the provisions of law applicable to municipal courts, and contained in the Revised Laws of Minnesota, 1905, and the jurisdiction thereof, the practice and procedure therein shall conform as near as may be to the provisions of law applicable to municipal courts contained in the Revised Laws of Minnesota, 1905, provided, however that any municipal court in any city of the fourth class may adopt and follow the practice and procedure prescribed by chapter 229 of the General Laws of Minnesota for 1895, and all proceedings orders and judgments of such municipal courts which have followed the procedure prescribed by chapter 229 of the General Laws of 1895, and which are otherwise jurisdictional are hereby legalized and validated.

Any common council of any city of the fourth class having a municipal court now organized, or which shall hereafter organize a municipal court to which the provisions of this act may apply, shall have power to fix such reasonable sum, in lieu of all judges' and clerks' fees, to be charged to litigants in civil actions therein, and provide for the collection thereof and the payment of the sum so fixed into the city treasury of such city, and may provide for the collection of fees and the payment thereof into the city treasury, or shall have power to determine that the fees provided for in this act shall be in lieu of and in place of all salary, and shall have power to and may require in cases where salary is paid by the city that such judges collect such fees and pay same into the city treasury and be responsible for such collection.

When fees shall be taxed they shall be taxed and paid as in ordinary cases in courts of justices of the peace and shall be the same in amount as are pro-

vided in section 32 of chapter 229 of the Laws of 1895, as hereinbefore stated. ('09 c. 306 § 1, amended '11 c. 10 § 1)

282. **Same—Certain courts legalized**—Any municipal court heretofore organized or attempted to be organized in any city of the fourth class under any law, and now existing and performing the duties of such court is hereby legalized and the organization thereof in all things performed. ('09 c. 306 § 2)

283. **Courts in certain cities of first class—Probation officer, etc.**—In each city of the first class not operating under a home rule charter pursuant to section 36, article IV, of the state constitution, a probation officer shall be appointed by the judges of the municipal court of said city. Such officer may appoint one or more deputies, subject to approval by said judges. Each shall serve four (4) years, unless sooner removed by said judges for cause. ('13 c. 424 § 1)

284. **Same—Powers and duties**—Such officer, or his deputy, shall be present at every session of said court. He shall receive all persons placed on probation by said court and committed to his care during such probation period and perform such acts with reference to them as the judgment of the court may direct. He shall not be a regular member of the police force, but in the execution of his official duties shall have all the power of a police officer. ('13 c. 424 § 2)

285. **Same—Reports**—Every such probation officer shall report in writing to the court as often as required by it, with reference to the condition, disposition and other pertinent facts relative to the persons under his care. ('13 c. 424 § 3)

286. **Same—Offices, etc.**—The city council of said cities shall provide such officer and his deputies with suitable furnished offices in the building where such courts are held, with record books, blanks, stationery, postage and other expenses required for the proper execution of the purposes of this act. ('13 c. 424 § 4)

287. **Same—Salaries**—Such probation officer shall receive as full compensation for his services \$1800.00 per annum, and each deputy such amount as shall be fixed by the judges of said court, not exceeding \$1300.00 per annum. Such salaries shall be payable in equal monthly installments out of the city treasury. ('13 c. 424 § 5)

### COURT COMMISSIONER

288. **Election—Term of office**—There shall be elected in each county a court commissioner, who shall hold his office for four years and until his successor qualifies. One person may hold at the same time the offices of court commissioner and probate judge. (147)

289. **Qualification and powers**—Court commissioners shall be men learned in the law, and shall have and may exercise the judicial powers of a judge of the district court at chambers. Among other powers conferred by law, they are empowered to issue writs of habeas corpus, to take acknowledgment of deeds and other written instruments, to take depositions and certify to the same, to perform the marriage ceremony, to take disclosures in garnishment proceedings pending in the district court, and orders for the examination of judgment debtors in proceedings supplementary to execution may be made returnable before the court commissioner. (R. L. § 148, amended '09 c. 59 § 1)

Const. art. 6 § 15; 3-352, 249; 10-63, 45; 17-340, 315; 28-455, 10-778; 64-226, 66-969; 91-5, 97-371; 91-352, 98-188.

290. **To give bond and take oath**—Before entering upon his duties, each court commissioner shall give to the county a bond in the sum of two thousand dollars to be approved by the county board, conditioned for the faithful performance of his duties, which bond, with his oath of office, shall be filed for record with the register of deeds. (149)

291. **Records**—The court commissioner shall keep a record of all proceedings had before him in books procured at the expense of the county, and

shall be supplied with necessary stationery, which books and all unused stationery shall be delivered to his successor. (150)

292. **Vacancy**—Whenever a vacancy occurs in the office of court commissioner, the judge of the district court of the county shall appoint some competent person to fill such vacancy, who shall give the bond and take the oath by law required, and shall hold his office until the next general election, and until his successor qualifies. (151)

### PROBATE AND JUSTICE COURTS

293. **Jurisdiction**—The jurisdiction of the probate courts and courts of justices of the peace, and the powers, duties, and compensation of the officers thereof, shall be such as are defined in the several chapters of the Revised Laws relating thereto. (152)

See Const. art. 6 §§ 7, 8.

## CHAPTER 5A

### SALARIES OF CERTAIN STATE OFFICERS AND EMPLOYEES

294. **Yearly salaries—When payable**—The yearly salaries of the state officers and employees mentioned in this act shall be as herein fixed and all salaries shall be payable in monthly installments.

#### 1. OFFICE OF GOVERNOR

Governor, seven thousand dollars; private secretary, forty-five hundred dollars; executive clerk, three thousand dollars; recording clerk, twelve hundred dollars; executive messenger, twelve hundred dollars; stenographer, twelve hundred dollars.

#### 2. JUDICIAL DEPARTMENT

Chief justice, seven thousand, five hundred dollars; associate justices, seven thousand dollars each; supreme court commissioners, seven thousand dollars each; clerk of supreme court, forty-five hundred dollars; assistant clerk, two thousand dollars; clerk's stenographer, nine hundred dollars; supreme court reporter, three thousand dollars; reporter's stenographers, not to exceed ten hundred and eighty dollars; marshal, nine hundred dollars; janitor, nine hundred dollars; each stenographer such sum as shall be fixed by the justice or court commissioner appointing them, not exceeding nine hundred dollars.

#### 3. OFFICE OF SECRETARY OF STATE

Secretary of state, forty-five hundred dollars; assistant secretary, twenty-five hundred dollars; chief clerk, eighteen hundred dollars; recording clerk, fifteen hundred dollars; assistant clerk, twelve hundred dollars; custodian of public documents, twelve hundred dollars; United States government survey clerk, fifteen hundred dollars; stenographer, twelve hundred dollars.

#### 4. OFFICE OF STATE AUDITOR

State auditor, forty-six hundred dollars; deputy auditor, twenty-seven hundred and fifty dollars; chief bookkeeper, twenty-four hundred dollars; accountant, twenty-one hundred dollars; warrant clerk, eighteen hundred dollars; revenue clerk, fifteen hundred dollars; clerk of investment board, eighteen hundred dollars; stenographer, twelve hundred dollars; additional clerks, such sum as the auditor shall prescribe not exceeding in all three thousand three hundred and eighty dollars; chief land clerk and clerk of timber board, twenty-four hundred dollars; assistant land clerk, fifteen hundred dollars, additional land clerks, such sum as the auditor shall prescribe not exceeding in all fifty-four hundred dollars; mineral land clerk, eighteen hundred dollars.

#### 5. OFFICE OF ADJUTANT GENERAL

Adjutant general, twenty-four hundred dollars; assistant adjutant general, sixteen hundred dollars; military storekeeper, thirteen hundred and twenty dollars; clerk, twelve hundred dollars; stenographer, one thousand dollars.